

No. 2411

United States
Circuit Court of Appeals
For the Ninth Circuit.

EDWARD STROECKER, as Trustee of the Estate of
H. J. Patterson, a Bankrupt,

Appellant,

vs.

MARIAM A. PATTERSON and H. J. PATTERSON,
Appellees.

Transcript of Record.

Upon Appeal from United States District Court of the
Territory of Alaska, Fourth
Division.

FILED

APR 29 1914

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**Upon Appeal from United States District Court of the
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Due service and receipt of three copies hereof ad-
mitted this. 31st day of March, 1914.

A. R. Heilig
Attorney for Appellees.

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Names and Addresses of Attorneys of Record.

LOUIS K. PRATT & SON, and McGOWAN & CLARK, Attorneys for Plaintiff and Plaintiff in Error, Fairbanks, Alaska.

A. R. HEILIG, Attorney for Defendants and Defendants in Error, Fairbanks, Alaska.

In United States District Court for the Territory of Alaska, Fourth Division.

No. 1769

EDWARD STROECKER, as Trustee of the Estate of H. J. Patterson, a Bankrupt,

Plaintiff,

vs.

MARIAM A. PATTERSON and H. J. PATTERSON,
Defendants.

Stipulation Relative to Printing Record.

IT IS HEREBY STIPULATED that in printing the papers and records to be used on the hearing of the appeal taken in the above entitled cause, for the consideration of the Circuit Court of Appeals for the Ninth Circuit, that the title of the court and cause in full on all papers shall be omitted, except on the first page of said record, and that there shall be inserted in the place of said title, in all papers used as a part of said record, the words "Title of Court and Cause"; also that all endorsements on all papers, except the clerk's filing marks and admission of service, need not be printed.

Dated at Fairbanks, Alaska, this January 14th, 1914.

McGOWAN & CLARK,
Attorneys for Plaintiff.
A. R. HEILIG,
Attorney for Defendants.

Filed in the District Court, Territory of Alaska, 4th Div., Jan. 15, 1914. Angus McBride, Clerk. By P. R. Wagner, Deputy.

[Title of Court and Cause.]

Praecipe for Transcript.

To Angus McBride, Clerk of the Above-entitled Court:

You will please prepare transcript of the record in the above entitled cause, to be filed in the office of the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, sitting at San Francisco, California, upon the appeal heretofore perfected to said court, and will include in said transcript the following papers and records, to-wit:

1. Complaint,
2. Separate answer of H. J. Patterson.
3. Separate answer of Miriam A. Patterson,
4. Reply to separate answer of H. J. Patterson.
5. Reply to separate answer of Miriam A. Patterson,
6. Bill of exceptions and order allowing and settling same,
7. Consent order for deposit of royalties in court,
8. Order after judgment for depositing royalties in court,

9. Order relative to supersedeas bond and cost bond on appeal,
10. Supersedeas bond and cost bond on appeal (one instrument),
11. Assignment of error,
12. Petition for appeal,
13. Order allowing appeal and fixing amount of cost bond,
14. Cost bond on appeal,
15. Citation on appeal,
16. Designation of place for hearing appeal,
17. Order extending time within which to file appeal,
18. Praecipe for transcript,
19. Stipulation relative to printing record.

This transcript to be prepared, as required by law, and the orders and rules of this court and of the United States Circuit Court of Appeals for the Ninth Circuit, and to be filed in the office of the Clerk of said United States Circuit Court of Appeals, at San Francisco, California, on or before the first day of April, A. D. 1914, pursuant to order of this court, extending time.

Fairbanks, Alaska, February 26, 1914.

McGOWAN & CLARK,

Attorneys for Plaintiff.

Filed in the District Court, Territory of Alaska, 4th Div., Feb. 26, 1914. Angus McBride, Clerk. By P. R. Wagner, Deputy.

[Title of Court and Cause.]

Complaint.

Comes now the above named plaintiff and for cause of action against defendants alleges:

I.—That, on the 16th day of April, 1912, H. J. Patterson, of Fairbanks Recording Precinct, Territory of Alaska, filed his voluntary petition in this Court, the same being No. 35 B., on the records of said Court, praying that he be declared a bankrupt and be given the benefit of the National Bankruptcy Act, and on the 16th day of April, 1912, this honorable Court duly declared said Patterson a bankrupt.

II.—That, at an adjourned session of the first meeting of the creditors of said bankrupt, on the 4th day of May, 1912, duly and regularly called and convened by the Referee in Bankruptcy of this Court for this Precinct, for the purpose of electing a Trustee of the estate of said H. J. Patterson, all the creditors present whose claims had been filed and allowed, appointed this plaintiff unanimously to said office of Trustee, which was accepted by plaintiff, and plaintiff thereafter duly and regularly qualified as such Trustee, in the manner prescribed by law, and ever since said time has been, and now is, the duly appointed, qualified, and acting Trustee of the estate of H. J. Patterson, a bankrupt.

III.—That, in the petition of said bankrupt, he sets up that he has creditors whose claims amount to something over thirty-five thousand dollars and that his assets are worth only about five thousand dollars. Claims of said creditors, some of them judg-

ment creditors, have been filed and allowed by said Referee in Bankruptcy, amounting to about \$25,000.-00, and bankrupt's assets do not exceed the amount set forth in his petition.

IV.—That, on the 27th day of November, 1911, said defendant H. J. Patterson was insolvent and unable to pay his debts due and owing to various persons in an amount in excess of thirty thousand dollars, while said Patterson's assets did not exceed in value the amount of ten thousand dollars, and on said 27th day of November, 1911, said H. J. Patterson was the legal and equitable owner and entitled to the immediate and exclusive possession of an undivided one-quarter interest in that certain placer mining claim known as the Daly Bench placer mining claim, situate, lying, and being in the second tier of benches on the left limit of Ester Creek, opposite creek placer mining claim No. Three below Discovery on said Ester Creek, all in the Fairbanks Recording Precinct, Territory of Alaska.

V.—That, on said 27th day of November, 1911, said H. J. Patterson, for the purpose of defrauding, hindering, and delaying his creditors, and especially the creditors whose claims are on file and allowed as above set forth, they being his creditors on said 27th day of November, 1911, in the same amounts and then due, without any consideration of any kind conveyed and transferred, by an instrument in writing duly executed and recorded, all of his title to said one-quarter interest in said Daly Bench, to his wife, Mariam A. Patterson, and said Mariam A. Pat-

terson received the title to said claim at said time and is still holding it in trust for said H. J. Patterson, to aid him in defrauding and cheating his creditors, and said H. J. Patterson still is the real owner thereof, although the legal title is in his wife's name, and said mining claim is not listed by said bankrupt in his said petition as belonging to him in any manner either legally or equitably.

VI.—That, prior to said fraudulent transfer as above set forth, said H. J. Patterson was the owner of a lay or lease agreement, covering the whole of said Daly Bench hereinbefore particularly described, and thereafter and prior to the commencement of this action and prior to his adjudication in bankruptcy, for a valuable consideration, assigned and transferred said lay to H. C. Hamilton, who is now the owner and holder thereof and is mining said ground under the terms and conditions of said original lay and said sub-lease made by said H. J. Patterson to said H. C. Hamilton.

VII.—That under and by virtue of the terms and conditions of said sub-lease and arrangements made subsequent thereto, said H. J. Patterson was entitled to receive from said mining operations so conducted by said Hamilton five per cent. of the gross output of said ground.

VIII.—That said interest of said Patterson in said lease has never been assigned or transferred to any person or persons whomsoever, and said Patterson is now entitled to receive five per cent. of the gross output of said ground during the life of said lease.

IX.—That said Mariam A. Patterson claimed, by virtue of her alleged ownership of said property, to be entitled to receive said five per cent. of the gross mineral output of said claim and to be the assignee of all benefits under said lease, by virtue of said transfer of said undivided one-quarter interest in and to said property, made by said H. J. Patterson to her on the 23rd day of November, 1911, as aforesaid.

X.—That plaintiff herein has no objections to said layman continuuing operations on said ground and is willing to have said layman continue mining operations on payment of the royalties prescribed in said lease and sub-lease hereinbefore set forth.

XI.—That, on or about the 8th day of May, 1912, said H. C. Hamilton held his first cleanup on said ground from the dump extracted by him from said ground during the spring of the year 1912, and, at the time of said cleanup, the defendants above named demanded the payment to them of five per cent. of the gross output thereof.

XII.—That said Hamilton now has in his possession said five per cent. of said cleanup, which he then and there refused to pay to said defendants, and will, from time to time as said winter dump is cleaned up, have other sums of money claimed by said Mariam A. Patterson under and by virtue of said fraudulent conveyance from H. J. Patterson to said Mariam A. Patterson, hereinbefore particularly described, and said defendants Mariam A. Patterson and H. J. Patterson will demand and receive from said H. C. Hamilton said five per cent. of said

gross output, unless restrained by this Court.

XIII.—That plaintiff is informed and believes and so alleges that said Mariam A. Patterson is insolvent, and that, if said Mariam A. Patterson secures possession of said five per cent. of the gross output of said ground, it will be for ever lost to the creditors of said H. J. Patterson and to plaintiff herein as trustee thereof.

XIV.—That plaintiff is informed and believes and so alleges that said Mariam A. Patterson has no right, title, or interest in or to said gold and gold dust or any part thereof, and that plaintiff herein is entitled to receive said five per cent. of said gross output, by virtue of being Trustee for the creditors of said H. J. Patterson, and said sum should be applied toward the payment of said creditors' claims.

XV.—That a Receiver should be appointed to receive said gold and gold dust and to hold the same until the title thereto can be ascertained, or to pay the same into the registry of this Court, there to be held until the title to the same can be determined.

XVI.—That plaintiff has no plain, speedy, or adequate remedy at law, and no means of enforcing his right to collect said five per cent. of the gross output of said ground, without the intervention of a Court of Equity.

WHEREFORE: Plaintiff prays as follows, to-wit:

I.—For a temporary restraining order, restraining the said defendants, and each of them, their agents, representatives, servants, employes, and attorneys, from demanding or attempting to collect or receive

said five per cent. of the gross mineral output of said Daly Bench placer mining claim, or any part thereof, until the further orders of this Court.

2.—That a Receiver be appointed, with authority to demand and receive from said H. C. Hamilton, or his representatives or assigns five per cent. of the gross mineral output of said Daly Bench, and to hold the same until the ownership thereof can be determined by this Court; or, for an order directing the said H. C. Hamilton, his agents or assigns, to pay said five per cent. of the gross mineral output of said claim into the registry of this Court, there to await the further disposition thereof by order of this Court.

3.—For a decree of this Court, decreeing that the transfer from said H. J. Patterson to said Mariam A. Patterson was fraudulent and is void, and was made by said H. J. Patterson with the purpose, intention, and design of cheating, defrauding, hindering, and delaying his said creditors, and that said Mariam A. Patterson holds the title to an undivided one-quarter interest in said Daly Bench in trust for H. J. Patterson and, by virtue of the appointment of the plaintiff herein as Trustee for the creditors of said H. J. Patterson, in trust for said plaintiff herein as successor in interest of said H. J. Patterson.

4.—For a decree of this Court, decreeing that said Mariam A. Patterson has no right, title, or interest in or to said property or any part thereof or in or to any gold or gold dust extracted therefrom.

5.—For a decree of this Court, decreeing that plaintiff herein is entitled to receive five per cent. of the

gross mineral output of said ground, as Trustee for the creditors of said H. J. Patterson.

6.—For an order of this Court, directing said Mariam A. Patterson to re-convey said property, to-wit, an undivided one-quarter interest in and to the Daly Bench placer mining claim, hereinbefore particularly described, to the plaintiff herein as Trustee for the creditors of H. J. Patterson, a bankrupt.

7.—For an order fixing the time and place when said defendants shall appear and show cause, if any they have, why said restraining order should not be continued during the pendency of this action.

8.—For costs of suit and for such other and further relief as is just, meet, and equitable in the premises.

LOUIS K. PRATT & SON,
McGOWAN & CLARK,

Attorneys for Plaintiff.

Territory of Alaska,
Fairbanks Precinct,—

EDWARD STROECKER, being first duly sworn according to law, on his oath deposes and says:

I am the plaintiff in the above entitled action; I have read the within and foregoing complaint, know the contents thereof, and the same is true as I verily believe.

EDWARD STROECKER.

Subscribed and sworn to before me this eleventh day of May, A. D. one thousand nine hundred twelve.

(Seal)

JOHN A. CLARK,

Notary Public in and for the Territory of Alaska.

Filed in the District Court, Territory of Alaska,

4th Div., May 11, 1912. C. C. Page, Clerk. By H. C. Green, Deputy.

[Title of Court and Cause.]

Separate Answer of Mariam A. Patterson.

Comes now the defendant Mariam A. Patterson and
for her separate answer to the complaint herein

Denies each and every allegation contained in paragraph IV thereof, excepting that she admits that on the morning of November 27, 1911, the bare legal title to an undivided one-quarter interest in the mining claim described in said paragraph stood in the name of H. J. Patterson, and alleges that at that time the said H. J. Patterson was not the actual, real nor equitable owner of said interest but that she, this defendant, was at that time, and had been for a long time prior thereto, the actual real and equitable owner thereof;

2. Denies each and every allegation contained in paragraph V thereof, excepting that she admits that in the evening of November 27, 1911, the said H. J. Patterson did, by instrument in writing, duly executed and delivered, convey to this defendant the bare legal title to said quarter interest theretofore standing in his name, and that this defendant then and there received the bare legal title to said interest, and that the legal title to said interest has since said time been, and now is, in this defendant, and admits that said interest is not listed by the said H. J. Patterson in his schedule of assets in said bankruptcy proceedings.

3. Denies the allegation contained in paragraph VI that said H. J. Patterson was the owner of a lease covering the whole of said Daly Bench, but admits that prior to the transfer by him to her of the bare legal title to said quarter interest he had a lay or lease upon the undivided three-fourths interest in said Bench belonging to James Wickersham, and admits that he assigned said lease to H. C. Hamilton and that he executed a lease of the other quarter interest belonging to this defendant to the said Hamilton shortly before he transferred to her the bare legal title thereto theretofore held by him.

4. Denies the allegation contained in paragraph VII that said H. J. Patterson was at any time entitled to receive from the mining operations conducted by said Hamilton five per cent. or any part of the gross output of said ground by virtue of his alleged ownership of a quarter interest therein, but alleges that this defendant was then and is now entitled to receive said five per cent of the gross output as the actual, legal and equitable owner of said quarter interest.

5. Denies each and every allegation contained in paragraphs VIII, XIII, XIV, XV and XVI thereof.

6. She admits that she claims to be entitled to receive the five per cent of the gross output of said mining claim, referred to in paragraph IX, but denies that her claim is based solely upon the transfer to her of the bare legal title to said quarter interest made by said H. J. Patterson to her on November 27, 1911, and alleges that long prior to said date she

was the actual, real and equitable owner of said quarter interest and now is the actual, legal and equitable owner thereof.

7. She denies the allegation contained in paragraph XI that the said H. J. Patterson demanded the payment to himself of five per cent of the gross output of said mining claim at the first cleanup but admits that she demanded payment to her at the first cleanup of five per cent of the gross output, upon the ground that she was the owner of a quarter interest in said mining claim.

And for a further defense and as an affirmative answer this defendant Mariam A. Patterson alleges

1. That on the 19th day of September, 1910, James Wickersham was the sole owner of placer mining claim known as the Daly Bench situate on the left limit of Esther creek in the Fairbanks Recording District, Alaska; that on said date said Wickersham entered into an agreement with H. J. Patterson whereby said Wickersham agreed to convey to said H. J. Patterson an undivided one-quarter interest in said mining claim if said H. J. Patterson would sink a hole to bedrock upon said claim and do the assessment work thereon for the year 1910;

2. That said H. J. Patterson agreed to said conditions, but desired to use what money he had for other purposes, and therefore, with the knowledge and consent of the said Wickersham, agreed with this defendant that if she would pay with her own funds the expense of sinking such hole to bedrock and of doing said assessment work, that she should

be entitled to receive and would receive a conveyance of said quarter interest instead of said H. J. Patterson;

3. That in pursuance of the agreement thus made between this defendant and H. J. Patterson, and with H. J. Patterson and the said Wickersham, this defendant did, at her own expense, on the 20th and 21st day of September, 1910, cause to be sunk a hole to bedrock and did cause to be done the assessment work for the year 1910, upon said claim, and with funds belonging to her and which were her separate property and estate, and in which the said H. J. Patterson had no interest whatever, she did on the 21st day of September, 1910, pay to the persons who performed said work at her instance and request the sum of \$225.00 for sinking such hole to bedrock and doing said assessment work.

4. That before said Wickersham had time to execute a deed conveying said quarter interest as he had agreed, he left the District of Alaska and remained without said District until late in the Fall of 1911; that after said Wickersham returned to Fairbanks, said H. J. Patterson requested him to make a deed conveying said quarter interest to this defendant upon the ground that she had performed the conditions of said contract, but the said Wickersham preferred to, and did, make such deed to the said H. J. Patterson, without the knowledge or consent of this defendant, and delivered the same to said H. J. Patterson on or about the 10th day of November, 1911, but with the express understanding

had between the said Wickersham and the said H. J. Patterson that the latter would convey the bare legal title to said quarter interest so received by him to this defendant.

5. That thereafter, when this defendant learned that said deed had been made and delivered to H. J. Patterson she demanded from him a conveyance of the legal title to her in pursuance of his said agreement with her, whereupon said H. J. Patterson did, on the evening of November 27, 1911, by deed convey to this defendant the legal title to said quarter interest then held by him.

6. That since the 21st day of September, 1910, this defendant has been at all times and now is the equitable owner of said quarter interest, and since the 27th day of November she has been at all times and now is the owner and holder of the legal and equitable title to said quarter interest, and is now and for a long time past has been in the actual possession thereof, and is entitled to and has the present right of possession thereof.

7. That since the 21st day of September, 1910, said H. J. Patterson has had no right, title nor interest, legal or equitable, in said quarter interest, and received the bare legal title thereto on or about the 10th day of November, 1911, for the sole purpose of transferring the same to this defendant, and executed said deed of conveyance to her on the 27th day of November, 1911, for the sole purpose of transferring to her the bare legal title then standing in his name and in performance of his agreement made

with her on September 19, 1910, and without any intent to hinder, delay or defraud any of his creditors.

8. That during the time said H. J. Patterson held the bare legal title to said quarter interest he made a lease thereof to H. C. Hamilton, reserving for said quarter interest as rent or royalty five per cent of the gross output of gold mined by said Hamilton from said mining claim during the term of such lease; that this defendant has assented to such lease and the rents and royalties therein reserved, and by virtue of her ownership of said quarter interest she is entitled to receive five per cent of the gross output of gold mined by said Hamilton, as rent or royalty, at each and every cleanup.

Wherefore this defendant prays judgment that plaintiff is not entitled to the relief claimed by him nor any part thereof, and that she is the legal and equitable owner of the quarter interest in said mining claim described in the complaint, and is entitled to the rents and royalties accruing therefrom; and that she recover her costs and disbursements herein.

A. R. HEILIG,

Atty. for Mariam A. Patterson.

District of Alaska,
Fourth Division,—ss.

Mariam A. Patterson being duly sworn deposes and says that she is one of the above named defendants; that the allegations contained in foregoing answer are true as she verily believes.

MARIAM A. PATTERSON.

Subscribed and sworn to before me this 20 day of May, 1912.

(Seal)

ALBERT R. HEILIG,

Notary Public, District of Alaska.

Received copy May 22, 1912.

McGOWAN & CLARK,

LOUIS K PRATT & SON,

Atty for Pltff.

Filed in the District Court, Territory of Alaska,
4th Div., May 22, 1912. C. C. Page, Clerk.

[Title of Court and Cause.]

Separate Answer of H. J. Patterson.

Comes now H. J. Patterson, one of the above-named defendants, and for his separate answer to the complaint herein

1. Denies each and every allegation contained in paragraph IV thereof, excepting that he admits that on the morning of November 27, 1911, the bare legal title to an undivided one-quarter interest in the mining claim described in said paragraph stood in the name of H. J. Patterson, and alleges that at that time the said H. J. Patterson was not the actual, real nor equitable owner of said interest but that the defendant Mariam A. Patterson was at that time, and had been for a long time prior thereto the actual, real and equitable owner thereof.

2. Denies each and every allegation contained in paragraph V thereof, excepting that he admits that in the evening of November 27, 1911, he did, by in-

strument in writing duly executed and delivered, convey to the defendant Mariam A. Patterson the bare legal title to said quarter interest theretofore standing in his name, and that said defendant Mariam A. Patterson then and there received the bare legal title to said interest, and that the legal title to said interest has since said time been, and now is, in the defendant Mariam A. Patterson, and that said interest is not listed by him in his schedule of assets filed with his petition in bankruptcy.

3. Denies the allegation contained in paragraph VI that he was the owner of a lease covering the whole of said Daly Bench, but admits that prior to the transfer by him to Mariam A. Patterson of the bare legal title to a quarter interest in said bench he had a lay or lease upon the undivided three-fourths interest in said bench belonging to James Wickersham, and admits that he assigned said lease to H. C. Hamilton, and that he executed a lease of the other quarter interest belonging to the defendant Mariam A. Patterson to the said H. C. Hamilton shortly before he transferred to the said Mariam A. Patterson the bare legal title thereto theretofore held by him.

4. Denies the allegation contained in paragraph VII that he was at any time entitled to receive from the mining operations conducted by said Hamilton five per cent or any part of the gross output of said ground by virtue of his alleged ownership of a quarter interest therein, but alleges that the defendant Mariam A. Patterson was then and is now entitled to receive said five per cent of the gross output as

the actual, legal and equitable owner of said quarter interest.

5. Denies each and every allegation contained in paragraphs VIII, XIII, XIV, XV and XVI thereof.

6. He admits that defendant Mariam A. Patterson claims to be entitled to receive the five per cent of the gross output of said mining claim, referred to in paragraph IX but denies that her claim is based solely upon the transfer to her of the bare legal title to said quarter interest made by him on November 27, 1911, and alleges that long prior to said date she was the actual, real and equitable owner of said quarter interest and now is the actual, legal and equitable owner thereof.

7. Denies the allegation contained in paragraph XI that he demanded the payment to himself of five per cent of the gross output of said mining claim at the first cleanup but admits that the defendant Mariam A. Patterson demanded payment to her at the first cleanup of five per cent of the gross output. As a further and affirmative answer to said complaint he alleges

1. That on the 19th day of September, 1910, James Wickersham was the sole owner of the placer mining claim known as the Pat Daly Bench situate on the left limit of Esther creek in the Fairbanks Recording District Alaska; that on said date said Wickersham entered into an agreement with this defendant whereby said Wickersham agreed to convey to this defendant an undivided one-quarter interest in said mining claim if this defendant would sink a

hole to bedrock upon said claim and do the assessment work thereon for the year 1910;

2. That this defendant agreed to said conditions but desired to use what money he had for other purposes and therefore with the knowledge and consent of the said Wickersham agreed with the defendant Mariam A. Patterson that if she would pay with her own funds the expense of sinking such hole to bedrock and of doing said assessment work that she should be entitled to receive, and would receive, a conveyance of said quarter interest instead of this defendant.

3. That in pursuance of the agreement thus made between this defendant and Mariam A. Patterson and with this defendant and the said Wickersham, the defendant Mariam A. Patterson did, at her own expense, on the 20th and 21st days of September, 1910, cause to be sunk a hole to bedrock and did cause to be done the assessment work for the year 1910 upon said claim; and with funds belonging to her and which were her separate estate and property, and in which this defendant had no interest whatever, she did on the 21st day of September, 1910, pay the sum of \$225.00 for sinking such hole to bedrock and doing said assessment work.

4. That before said Wickersham had time to execute a deed conveying said quarter interest as he had agreed, he left the District of Alaska and remained without said district until late in the Fall of 1911; that after said Wickersham returned to Fairbanks this defendant requested said Wickersham to

make a deed conveying said quarter interest to the defendant Mariam A. Patterson upon the ground that she had performed the conditions of said contract, but the said Wickersham preferred to, and did, make such deed to this defendant, and delivered the same to him on or about the 10th day of November, 1910, with the express understanding had with him at the time of such delivery that this defendant would convey the bare legal title to said quarter interest so received by him to the said Mariam A. Patterson.

5. That thereafter, when the said Mariam A. Patterson learned that said deed had been made and delivered to this defendant, she demanded from him a conveyance of the legal title to her in pursuance of their said agreement, whereupon this defendant did on the evening of the 27th day of November, 1911, by deed convey to the said Mariam A. Patterson the legal title to said quarter interest.

6. That since the 21st day of September, 1910, said Mariam A. Patterson has been at all times and now is the equitable owner of said quarter interest, and since the 27th day of November, 1911, she has been at all times and now is the owner and holder of the legal and equitable title to said quarter interest, and is now and for a long time past has been in the actual possession thereof, and is entitled to and has the present right of possession thereof.

7. That since the 21st day of September, 1910, this defendant has had no right, title nor interest, legal or equitable, in said quarter interest, and re-

ceived the bare legal title thereto on or about the 10th day of November, 1911, for the sole purpose of transferring the same to said Mariam A. Patterson, and executed said deed of conveyance to her on the 27th day of November, 1911, for the sole purpose of transferring to her the bare legal title then standing in his name and in performance of his agreement made with her on September 19, 1910, and without any intent to hinder, delay or defraud any of his creditors.

8. That during the time that this defendant held the bare legal title to said quarter interest he made a lease thereof to H. C. Hamilton, reserving for said quarter interest as rent or royalty five per cent of the gross output of gold mined by said Hamilton from said mining claim during the term of such lease; that the defendant Mariam A. Patterson has assented to such lease and the rents and royalties therein reserved, and by virtue of her ownership of said quarter interest she is entitled to receive five per cent of the gross output of gold mined by said Hamilton, at each and every cleanup as such rent or royalty.

Wherefore this defendant prays judgment that plaintiff is not entitled to the relief claimed by him nor any part thereof, and that she, the said Mariam A. Patterson is the legal and equitable owner of the quarter interest in said mining claim and entitled to the rents and royalties accruing therefrom; and that he recover his costs and disbursements herein.

A. R. HEILIG,
Atty. for H. J. Patterson.

District of Alaska,
Fourth Division,—ss.

H. J. Patterson being duly sworn deposes and says that he is one of above named defendants; that the allegations contained in foregoing answer are true as he verily believes.

H. J. PATTERSON.

Subscribed and sworn to before me this 17 day of May, 1912.

(Seal)

ALBERT R. HEILIG,

Notary Public, District of Alaska.

Received copy May 22, 1912.

McGOWAN & CLARK,

LOUIS K. PRATT & SON,

Atty. for Pltff.

Filed in the District Court, Territory of Alaska,
4th Div., May 22, 1912. C. C. Page, Clerk.

[Title of Court and Cause.]

Reply to Answer of Defendant H. J. Patterson.

Comes now the above named plaintiff and in reply to the separate answer of defendant H. J. Patterson, states:

Denies each and every allegation of new matter in a said answer contained.

In reply to defendant H. J. Patterson's "Further and Affirmative Answer", plaintiff states:

1. Denies the allegations contained in paragraphs 2, 3, and 4 thereof.

2. Denies each and every allegation of paragraph 5, except that he admits H. J. Patterson executed a

deed, bearing the date November 27th, 1911, conveying the legal title to said quarter interest, to said Mariam A. Patterson.

3. Denies each and every allegation in paragraph 6 thereof except that he admits said defendant Miriam A. Patterson has been the legal owner to said interest since Nov. 27th, 1911.

4. Denies the allegations of paragraph 7.

5. Plaintiff has not sufficient information upon which to base a belief as to the truth or falsity of the allegations contained in paragraph 8 thereof and therefore denies the same.

WHEREFORE, plaintiff asks for the relief prayed for in his complaint.

McGOWAN & CLARK,
LOUIS K. PRATT & SON,
Attorneys for Plaintiff.

United States of America,
Territory of Alaska,—ss.

Edward Stroecker being first duly sworn on oath says: I am the plaintiff in the above entitled suit; I have read the foregoing reply and the allegations therein contained are true as I verily believe.

EDWARD STROECKER.

Subscribed and sworn to before me this 25th day of Sept., 1913.

(Seal)

HARRY E. PRATT,
Notary Public in and for Alaska.

My commission expires June 24th, 1916.

Service of the foregoing reply, by copy thereof is

hereby admitted this 25th day of September, 1913.

A. R. HEILIG,

Attorney for Defendants.

Filed in the District Court, Territory of Alaska,
4th Div., Sep. 25, 1913. C. C. Page, Clerk. By P. R.
Wagner, Deputy.

[Title of Court and Cause.]

Reply to Answer of Mariam A. Patterson.

Comes now the above named plaintiff and in reply to the separate answer of defendant Mariam A. Patterson states:

Denies each and every allegation of new matter in said answer contained.

In reply to defendant Mariam A. Patterson's "Further Defense and Affirmative Answer", plaintiff states:

1. Denies the allegations contained in paragraphs 2 and 3 thereof.

2. Denies the allegations contained in paragraph 4 thereof.

3. Denies the allegations contained in paragraph 5 thereof except that he admits H. J. Patterson executed a deed, bearing the date November 27th, 1911, conveying the legal title to said quarter interest.

4. Denies each and every allegation in paragraph 6 thereof except that he admits that said defendant has been the holder of the legal title to said interest since November 27th, 1911.

5. Denies each and every allegation in paragraph 7.

6. Plaintiff has not sufficient information upon which to base a belief as to the truth or falsity of the allegations contained in paragraph 8 thereof and therefore denies the same.

Wherefore plaintiff prays judgment as in his complaint set forth.

McGOWAN & CLARK,
LOUIS K. PRATT & SON.

Territory of Alaska,
Fourth Division,—ss.

Edward Stroecker, being first duly sworn on oath says: I am the plaintiff in the above entitled suit; I have read the foregoing reply and the allegations therein contained are true as I verily believe.

EDWARD STROECKER,

Subscribed and sworn to before me this 25th day of Sept., 1913.

(Seal)

HARRY E. PRATT,

Notary Public in and for Alaska.

My commission expires June 24th, 1916.

Service of the above reply, by receipt of copy thereof, is hereby admitted this 25th day of September, 1913.

A. R. HEILIG,

Attorney for Defendants.

Filed in the District Court, Territory of Alaska, 4th Div., Sep. 25, 1913. C. C. Page, Clerk. By P. R. Wagner, Deputy.

[Title of Court and Cause.]

Bill of Exceptions.

BE IT REMEMBERED: That this case came on regularly for trial before Honorable Frederick E. Fuller, judge, sitting without a jury, at 10 o'clock A. M., September 26th, 1913, when the following proceedings were had and testimony was taken: Messrs. Harry E. Pratt and John A. Clark, appeared as attorneys for plaintiff, and Mr. A. R. Heilig appeared as attorney for defendants.

Mr. Pratt made a statement of the case in behalf of the plaintiff, and Mr. Heilig made a statement of the case in behalf of the defendants.

H. J. PATTERSON, called as a witness for plaintiff, being duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION.

By Mr. PRATT.—Q. Mr. Patterson, you are one of the defendants in this action?

A. Yes, sir.

Q. You are the husband of the other defendant, are you not?

A. I am.

Q. Mr. Patterson, upon the 27th of November, 1911, you owed something over thirty thousand dollars, didn't you, in debts?

A. I think that the statement that Mr. Marquam made up of my expenses was thirty-two thousand, or something like that.

Q. Thirty-two thousand?

A. Something like that.

Q. Now, the property which you had at that time consisted of the same property that you listed in your petition in bankruptcy, didn't it?

A. It did, besides the ground that was blocked out. The ground that was blocked out wasn't taken into consideration.

Q. That is, the bankruptcy petition contains all of the property which you had on the 27th of November, except your lay on the Last Chance Association claim on Engineer Creek. Is that a fact?

Mr. HEILIG.—This bankruptcy petition is in writing, and I think they are asking the witness too much to recollect a petition which was filed in April, 1912, and we submit the records.

Mr. CLARK.—We are not asking for the contents. We are asking if it contained all of his property.

The COURT.—The witness has the privilege of examining it if he desires.

Mr. PRATT.—Q. I will ask you whether you disposed of any of your property between the 27th of November, 1911, and the time you filed your petition in bankruptcy, (interrupted)

A. No, I did not.

Q. —excepting the lay on the Last Chance Association on Engineer?

A. No, sir.

Q. Aside from that, there was nothing disposed of in between time?

A. No.

Q. And the value of your property, as set up, in your bankruptcy petition, was the same on the 27th day of November, 1911, as it was at the time the petition was filed, was it not?

A. I think it was.

Mr. PRATT.—I would like to offer the petition in bankruptcy in evidence in this case.

Mr. HEILIG.—I shall object thereto, as unnecessarily incumbering the record. Counsel can read from it into the record anything that he says is pertinent to the matter, but I object to the offer of the whole instrument.

Mr. PRATT.—I would just as soon read the portions then.

The petition in bankruptcy sets up that you have household goods and furniture and a house on placer claim number 4 below discovery on Ester Creek of the value of \$150.00; wearing apparel \$150.00; watch and jewelry \$50.00. That you have one tank 40 by 6 by 6, one tank 12 by 6 by 6, 400 feet of $\frac{3}{4}$ -inch cable, one saw arbor, 30-inch circular rip saw, one 30-inch cut-off saw, one Rochester lamp, 50 pounds boiler compound, 3 cars, 200 feet of 3-inch pipe, one house; all on the lower 1,000 feet of the Last Chance Association, valued at \$1,000. One 80-horsepower marine boiler situated on the Last Chance Association claim on Engineer Creek, \$1,600. Due from T. Peterson for money paid to him on account of wood not delivered \$1,101.95. Due by Arthur McNeer of Fairbanks, Alaska, for money paid him on account of wood and timber contracted for and not delivered

\$984. Undivided one-eighth interest in the Junction Association placer mining claim, situate on Caribou Creek, a tributary of Nome Creek, a tributary of Beaver River, in the Fairbanks Recording District, Alaska; estimated value, unknown. Undivided one-eighth interest in the Paystreak Association placer mining claim, situate on Alder Creek, a tributary of Ester Creek, in the Fairbanks Recording District, Alaska, value unknown. That is all the property which you have set up in your petition. That was all you had on the 27th of November, 1911?

A. Yes, sir.

Q. And you claim an exemption on that household furniture and the wearing apparel?

A. Yes, sir.

Q. Now, those mining claims which you mention in your schedule were just "wildcats" and of no value, were they?

A. I never saw them at all. Parties told me they had staked me in.

Q. They had no market value at all?

A. Not that I could tell. They might possibly be good, and they might not. The Caribou Creek mining claim, there are good possibilities on that, according to the parties that staked it. He owns about twelve miles of ground there, and there is a possibility of something good there. They had found good prospects. I had prospected on the creek below, and it showed very favorable. It was shallow, a good working proposition, the creek below that. Outside of that, I know nothing about it.

Q. Your lay on the Last Chance Association claim on Engineer Creek you forfeited the next day after the 27th, didn't you?

A. I assigned it.

Q. You assigned it over?

A. Yes.

Q. Did you get any consideration for it?

A. No, sir.

Q. What was the value of that lay in your estimation on the 27th?

A. Well, it was pretty hard to estimate.

Q. You couldn't have sold it for anything, could you?

A. I could not have sold it for anything. But if it had been properly worked, I am satisfied it was equal to the debts, but I couldn't say that there was profit in that particular ground or not. But there were two blocks of ground untouched above, included in that lay, and which could have been opened up much easier than the piece of ground that I did open.

Q. But you couldn't have sold it for anything at that time.

A. I don't know as I could. The people—(Interrupted)

Q. The ground was wet, wasn't it?

Mr. HEILIG.—Let him finish his answer.

Mr. PRATT.—I want an answer yes or no? Q. The ground was wet, was it not?

A. Yes.

Q. What was the value of the Daly Bench upon the 27th of November, 1911?

A. Well, it was of unknown value. There were no holes to bedrock.

Q. It was considered—(Interrupted)

A. There was no pay struck on that ground at that time.

Q. It was considered valuable, was it not?

A. It was guess work.

Q. Horner and Wheeler and Wagner had struck rich pay up above it?

A. They had.

Q. And the presumption was that the paystreak ran right across the Daly Bench?

A. No. They put down two drill holes on the Daly Bench, and, as far as I found out, they got no pay in either one of them. And Wheeler and Wagner's idea was that the pay just crossed a very small corner of the Daly Bench, and that was their reason for compromising for seventy-five feet off of the upper end of the Daly Bench—compromising that litigation. And as Wichman told me after the compromise was made: "Anything you can get out of that ground, you can put in your eye."

Q. It was pretty generally, among other people, thought to be a rather valuable claim?

Mr. HEILIG.—We object as too general.

A. Everybody had their idea in which way the paystreak ran.

Mr. PRATT.—Q. It could have been sold in the market for considerable over ten thousand dollars at that time?

Mr. HEILIG.—What is that?

A. On the 27th of November, 1911?

Mr. HEILIG (to Mr. Pratt).—What are you referring to?

Mr. PRATT.—The Daly Bench.

A. I think it is possible.

The COURT.—Q. What was the answer?

A. It is possible.

Mr. HEILIG.—I didn't catch that question.

Mr. PRATT.—I asked if it couldn't have been sold in the market upon the 27th day of November, 1911, for over ten thousand dollars.

Mr. HEILIG.—The whole of the Daly Bench?

Mr. PRATT.—Yes.

Mr. HEILIG.—If the witness knows.

Q. (Witness) I suppose it could have been. Everybody was anxious—everybody had their idea of which way the paystreak ran. Some people thought it came diagonally across the claim and others thought there was just a little pay on one corner.

Mr. PRATT.—Q. Since that time it has been worked upon a lay?

A. Yes.

Q. A lease?

A. Yes.

Q. And the royalties accruing to a one-quarter interest have amounted to over five thousand dollars, haven't they?

A. I believe they have.

Q. The royalty to one-quarter being five per cent?

A. Yes. There has been something over a hundred thousand dollars came out of that corner of the

Daly Bench.

Mr. PRATT.—I offer in evidence a certified copy of the deed from H. J. Patterson to Mariam A. Patterson made on the 27th of November, 1911.

Mr. HEILIG.—We will object to the offer purely upon the ground that it is unnecessarily incumbering the record. We have alleged in our answer this very deed, and they have alleged in their reply,—set up affirmatively that this transfer was made on this day by this defendant.

Mr. PRATT.—For this reason: The deed shows the consideration to be one dollar, and also there are recitals, and I would like to have the deed in evidence.

Mr. HEILIG.—We insist upon our objections.

The COURT.—It may be admitted, if that is the only objection, but it does not appear to me to be necessary.

(Marked as Plaintiff's Exhibit "A".)

PLAINTIFF'S EXHIBIT "A".

35329

THIS INDENTURE made and entered into this 27th day of November, A. D. 1911, by and between H. J. Patterson, of Fairbanks, Alaska, party of the first part, and Mariam A. Patterson, of the same place, party of the second part,

WITNESSETH: That the party of the first part, for and in consideration of the sum of One Dollar (\$1.00) lawful money of the United States of America, to him in hand paid by the party by the second

part, the receipt of which is hereby acknowledged, hath, granted, bargained, and sold, conveyed, remised, released and quitclaimed, and by these presents doth grant, bargain, sell, convey, remise, release and forever quitclaim unto the said party of the second part, her heirs and assigns, all his right, title and interest, being an undivided one-fourth interest of, in and to that certain bench placer mining claim situate in the Fairbanks Precinct, Alaska, on the left limit of Ester Creek, and known as the Pat Daly bench placer mining claim, being the second bench claim on the left limit and about opposite No. Three (3) creek claim below Discovery on said Ester Creek, and located by Pat Daly on December 1st, 1905;

TO HAVE AND TO HOLD the same, together with the appurtenances and improvements thereon, to and unto the said party of the second part, her heirs and assigns forever.

IN WITNESS WHEREOF the said party of the first part has hereunto set his hand and seal this the day and year first above written.

H. J. PATTERSON. [Seal]

Signed, sealed and delivered in the presence of
G. B. Erwin, F. R. Clark.

United States of America,
Territory of Alaska,
Fairbanks Precinct,—ss.

THIS IS TO CERTIFY that on this 27th day of November, A. D. 1911, before me, the undersigned, a notary public in and for the Territory of Alaska, duly commissioned and sworn, personally came H. J.

Patterson, known to me to be the person described in and who executed the foregoing quitclaim deed, and who acknowledged to me that he executed and delivered the same freely and voluntarily, for the uses and purposes therein mentioned.

IN TESTIMONY WHEREOF I have hereunto set my notarial seal and hand the day and year in this certificate first above written.

[Seal]

G. B. ERWIN,

A Notary Public in and for the Territory of Alaska.

Filed for record: 1 day of December, 1911, at 30 min. past 9 A. M.

John F. Dillon, Recorder.

By C. E. Wright, Deputy.

Mr. PRATT.—Q. Mr. Patterson. This deed from yourself to your wife upon the 27th day of November, 1911, recites that it is given in consideration of one dollar. As a matter of fact, you received nothing upon the 27th in payment for this deed—consideration for the deed—did you?

A. Well, it was merely a transfer.

Q. You received nothing at all at the time this deed was made out, did you, from your wife?

A. Well, my wife wasn't present at the time it was made. My wife was on Engineer.

Q. Was there any money paid to you, or any valuable consideration given to you, on the 27th of November, as a consideration for this deed?

A. No, there was not at the time.

Q. Mr. Patterson. Your creditors had commenced

to press you considerable about the 27th and a little prior thereto, had they not?

A. As soon as I commenced to take out money, the creditors commenced to press me—this one and then the other—for two or three months.

Q. They had particularly pressed you after the 15th of November, hadn't they, up to the time of the transfer?

A. I don't know as they were any worse then than they were any other time. The cleanups were larger, and of course everyone wanted a little more and a little more. They wanted more than their proportion of what was coming out.

Q. You had issued several checks on your bank account which had been refused prior to the 27th?

A. Prior to the 27th I think there were only two checks. And Mr. Bruning told me that he only held them up until the next week; one check issued to Mr. Peoples and one to Brumbaugh, Hamilton & Kellogg. He told me that he told Peoples that he would have to wait until next week or next cleanup.

Q. Mr. Peoples held a check for a thousand dollars, issued on the 15th of November?

A. I am not sure. I think it was near that date.

Q. Which never was paid, was it?

A. I don't know.

Q. Mr. Patterson. In addition in addition to the title to one-quarter of the Daly Bench which you had on the 27th of November, 1911, you also had a lease upon the whole claim, did you not?

A. Yes. Prior to the 27th of November, 1911, you say?

Q. Yes. On that day you had a lease, didn't you, on the whole claim?

A. I made an assignment of the lease to Mr. Hamilton, and also the deed on that day. I had the lease—(Interrupted)

Q. You made an assignment of the lease that same day?

A. Yes, sir.

Q. To Hamilton?

A. Yes, sir.

Q. And you reserved five per cent as royalty to yourself, did you not?

A. Five per cent to the quarter interest.

Q. You reserved it to yourself, did you not?

A. Well, yes, for that quarter interest.

Q. Mr. Hamilton went ahead and worked the ground under that lease, did he not, paying five per cent into Court in this case under the injunction order?

A. Yes, sir.

Q. And the money is now in this Court?

A. Yes, sir.

Q. In addition to assigning the lease on the Daly Bench to Hamilton on the 27th, and transferring the title to your wife upon the 27th, on the 28th you transferred your lay on the Last Chance Association on Engineer, did you not?

A. Well, I don't know whether it was the 28th, or just exactly what date. There were so many differ-

ent arrangements entered into there at that time. There was applications for a receiver, and an assignment made out for Stocker, and then a receiver appointed. Then, after the receivership was entered, there was an assignment made to twenty-five of the working men to take over the proposition and go ahead and work out this blocked-out ground.

Mr. PRATT.—That is all.

CROSS-EXAMINATION.

By Mr. HEILIG.—Q. Counsel has just asked you in regard to the transfer of the lease to Hamilton that you had received from Wickersham, and the sub-lease which you made to Hamilton. I ask you whether the instrument which I now show you (handing paper to witness) is the writing evidencing that transaction?

A. Yes, sir.

Q. Was it signed by you?

A. Yes, sir.

Q. Was that the lease under which Mr. Hamilton operated?

A. Yes, sir.

Mr. HEILIG.—We offer it in evidence.

Mr. PRATT.—No objection.

(Marked Defendant's Exhibit I.)

DEFENDANT'S EXHIBIT 1.

This indenture of lease made and entered into this 27th day of November, 1911, by and between H. J. Patterson of Fairbanks, Alaska, as party of the first

part, and H. C. Hamilton of the same place as party of the second part, witnesseth:

Whereas by indenture of lease dated October 12, 1911, James Wickersham did lease, let and demise unto the said H. J. Patterson that certain placer mining claim known as the "Daly Bench," situate on the left limit of Ester Creek, second tier, about opposite creek claim number three below discovery on said creek, in the Fairbanks Recording District, Alaska, for the term commencing October 12, 1911, and ending October 12, 1915;

And whereas said James Wickersham has consented to the subletting of said demised premises by the said H. J. Patterson to the said H. C. Hamilton upon the terms and conditions in said lease set forth;

Now therefore this indenture witnesseth that the said H. J. Patterson does hereby lease, demise and sublet unto the said H. C. Hamilton all of the placer mining claim above described, including all his right, title and interest therein held by the said H. J. Patterson as lessee of the said Wickersham and in his own right as owner of an undivided one-fourth part of the title to said mining claim, to have and to hold unto the said H. C. Hamilton for and during the term commencing this day and ending October 12, 1915, upon the same terms, conditions and covenants and subject to the same terms and conditions as in said lease from James Wickersham to said H. J. Patterson set forth, excepting, however, that the said H. C. Hamilton shall pay as royalty and rental as such lessee twenty-five per cent of the gross amount

of each and every cleanup of gold and gold dust made by him upon said demised premises to the said James Wickersham, and shall pay in addition thereto five per cent of the gross amount of each and every cleanup of gold and gold dust made by him upon said premises to the said H. J. Patterson, but in all other respects the terms, covenants and conditions of said lease from Wickersham to Patterson shall be binding upon the said H. C. Hamilton with the same force and effect and to all intents and purposes as if he were a party named as lessee in said lease.

And the said H. C. Hamilton hereby agrees to comply with and perform all the covenants and conditions in this lease contained and as well those contained in said lease from Wickersham to Patterson to the same extent and effect as if they were fully set out and repeated in this indenture, and to that end said lease and the terms, covenants and conditions therein referred to and hereby referred to **and** made a part of this lease.

In witness whereof the parties of the first and second part have hereunto set their hands and seals this 27th day of November, 1911.

H. J. PATTERSON. (Seal.)

H. C. HAMILTON. (Seal.)

In presence of Albert R. Heilig, G. B. Erwin.

District of Alaska,
Fourth Division,--ss.

Before me the undersigned authority personally appeared H. J. Patterson and H. C. Hamilton, each of

whom are personally known by me and known by me to be the individuals described in and who executed foregoing instrument, and each of them duly acknowledged that he signed and sealed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

In testimony whereof I have hereunto set my hand and affixed my official seal at Fairbanks, Alaska, this 27th day of November, 1911.

(Notarial Seal) ALBERT R. HEILIG,
Notary Public, District of Alaska.

I hereby consent to the subletting of the mining ground described in the lease referred to.

JAMES WICKERSHAM,
By HENRY T. RAY, His Atty. in Fact.

Q. This is dated the 27th of November, 1911; but H. J. Patterson party of the first part, to H. C. Hamilton, party of the second part. I ask the witness at this time: This assignment of the lease that you had gotten from Wickersham was made at a time when the legal title to this quarter interest in the Daly Bench was still in your name?

A. It was.

Q. After this transaction, you made the deed to your wife.

A. Practically, pretty nearly. Yes.

Q. Now, then, it reads (reads) "Whereas by indenture of lease dated October 12, 1911, James Wickersham did lease, let and demise unto the said H. J. Patterson that certain placer mining claim

“known as the “Daly Bench” situate on the left limit
“of Ester Creek, second tier, about opposite creek
“claim number three below discovery on said creek,
“in the Fairbanks Recording District, Alaska, for
“the term commencing October 12, 1911, and ending
“October 12, 1915;

“And whereas the said James Wickersham has con-
“sented to the subletting of said demised premises by
“the said H. J. Patterson to the said H. C. Hamil-
“ton upon the terms and conditions in said lease set
“forth;

“Now therefore this indenture witnesseth that the
“said H. J. Patterson does hereby lease, demise and
“sublet unto the said H. C. Hamilton all of the
“placer mining claim above described, including all
“his right, title and interest therein held by the said
“H. J. Patterson as lessee of the said Wickersham
“and in his own right as owner of an undivided one-
“fourth part of the title to said mining claim, to have
“and to hold unto the said H. C. Hamilton for and
“during the term commencing this day and ending
“October 12, 1915, upon the same terms, conditions
“and covenants and subject to the same terms and
“conditions as in said lease from James Wickersham
“to said H. J. Patterson set forth, excepting however
“that the said H. C. Hamilton shall pay as royalty
“and rental as such lessee twenty-five per cent of the
“gross amount of each and every cleanup of gold
“and gold dust made by him upon said demised
“premises to the said James Wickersham and shall
“pay in addition thereto five per cent of the gross

“amount of each and every cleanup of gold and gold dust made by him upon said demised premises to the said H. J. Patterson, but in all other respects the terms, covenants and conditions of said lease from Wickersham to Patterson shall be binding upon the said H. C. Hamilton with the same force and effect and to all intents and purposes as if he were a party named as lessee in said lease.” This five per cent which you refer to in this transfer and lease to Hamilton is what you have testified was the five per cent which was to accrue to the quarter interest in the Daly Bench, the title to which had been made to you by judge Wickersham?

Mr. CLARK.—We object as calling for a legal conclusion; and the instrument speaks for itself.

The COURT.—Overruled. I think it is conceded by the pleadings on both sides.

Mr. CLARK.—I don't think he testified in regard to that. We contend that the lease originally called for 25 per cent and that he assigned 20 per cent—that it called for 30 per cent.

Mr. HEILIG.—You haven't shown any such thing, and the lease is here.

Q. I will now ask you whether the instrument I show you is the original lease which James Wickersham executed to you. (Exhibiting same to witness)

A. Yes sir.

Q. The sheet attached to the original lease purporting to be signed; “James Wickersham by Henry “T. Ray, his attorney in fact,” do you know who at-

tached that and who executed it. (Handing same to witness)

A. Yes, sir.

Q. Who was it?

A. Henry T. Ray.

Q. He was the attorney in fact of James Wickersham?

A. Yes sir.

Mr. HEILIG.—We offer this in evidence.

Mr. PRATT.—No objection.

(Marked as Defendants Exhibit 2)

Mr. HEILIG.—We want to call the Court's attention to the fact, at this time, that this is a lease dated the 12th of October, 1911, made by judge Wickersham to H. J. Patterson (reads) "Witnesseth: "That the party of the first part"—That is James Wickersham—"is the owner of an undivided three-fourths interest in, and the party of the second "part" —that is H. J. Patterson—"is the owner of an "undivided one-quarter interest in, that certain placer "mining claim known as the "Daly Bench" situated on the left limit of Ester Creek." Then he leases the whole of the premises to Patterson upon a royalty of twenty five per cent to judge Wickersham, which was, as shown by the attached instrument, signed by James Wickersham through his attorney in fact Henry T. Ray. Will you admit that Henry T. Ray is his attorney in fact?

Mr. CLARK.—Yes, we admit it.

Mr. HEILIG.—You admit that Henry T. Ray was

at that time attorney in fact, with power to execute such instrument?

Mr. PRATT.—Surely.

Mr. HEILIG.—That subsequently Mr. Wickersham by his attorney in fact reduced that twenty-five per cent royalty to twenty per cent to Mr. Wickersham, and the five per cent, which was provided for in this transfer to sublease which Mr. Patterson made to Hamilton, was never reduced.

Q. Mr. Patterson. You had an agreement with Judge Wickersham—a lease from him—prior to this instrument dated the 12th of October, 1911?

Mr. PRATT.—We object—(Interrupted)

A. Yes sir.

Mr. PRATT. —for the reason that it is not proper cross-examination and incompetent. (Argument) It is part of their defence.

The COURT.—I think they have a right to go into the full transaction on cross examination. You inquired in regard to the consideration for this transfer, and they have a right to go back of it to show what the consideration was.

Mr. HEILIG.—Q. I believe you stated that you had a prior agreement and lease from judge Wickersham made on the 19th of September 1910.

A. I did.

Q. I will ask you whether that (Producing paper) is the instrument, signed by you and judge Wickersham.

A. Yes sir.

Mr. HEILIG.—I offer it in evidence.

Mr. PRATT.—We object, for the same reasons assigned a while ago, as not cross-examination, and as part of their own case.

The COURT.—Objection overruled. (Plaintiff excepts)

(Marked Defendants' Exhibit 3)

Mr. HEILIG.—This is the instrument I referred to “as “the first agreement” entered into. It is an agreement and a lease, dated the 19th of September, 1910, (reads) “By and between James Wickersham, “of Fairbanks, Alaska, party of the first part, and H. “J. Patterson, of Ester Creek, Fairbanks Precinct, “Alaska, party of the second part, witnesseth: That “the party of the first part”—that is James Wickersham—“is the owner and in possession of that “certain placer mining claim known as the ‘Daly “Bench’ situate on the left limit of Ester Creek in “the second tier of benches and about opposite Nos. “2 and 3 below Discovery on the said left limit of “said Ester Creek, Fairbanks Precinct, Territory of “Alaska, and the party of the second part desires to “prospect thereof and to take a lease for the future “working thereof; in consideration of the sinking “of a hole from the surface to bedrock thereon for “the purpose of prospecting the said ground and determine its value by the party of the second part at “his own expense, the party of the first part does “hereby agree to make, sign and deliver to the party “of the second part a quitclaim deed to an undivided one-fourth interest in the said premises; “the party of the second part undertakes hereby,

“in consideration of said agreement and transfer to
“sink said hole upon the said premises and to
“do the assessment work for the year 1910 without
“any expense whatever to the party of the first
“part;” That is the agreement relating to the transfer
of the one-quarter interest, and expresses the con-
sideration. Then follows: (reads) “In further con-
sideration of the rents, royalties, covenants and
“agreements hereinafter reserved and by the said
“party of the second part to be kept, paid, and per-
“formed, the party of the first part does hereby grant,
“demise, let and lease unto the said party of the
“second part the whole of the said premises to-
“gether with the appurtenances”—and so on, and then
the customary terms of a mining lease.

Q. Mr. Patterson. Under this instrument which I have just referred to, did you, as a layman, commence mining operations on the Daly Bench?

A. No sir.

Q. I call your attention to the fact that this instrument requires you as a lessee of those premises to work steadily and continuously. —(Interrupted)

Mr. CLARK.—We want it understood that our objection goes to the entire amount of this class of testimony.

The COURT.—Yes. I understand.

Mr. HEILIG.—Q. To work steadily and continuously in mining on that ground. And I ask you, in view of the fact that you have stated that you did not do that, what was the result of your failure to perform the terms of your lease, or, rather, what

action did judge Wickersham take in view of the fact that you had failed to perform it?

A. He forfeited the lease.

Q. You assented to that? You admitted that you had failed to comply with the terms of the lease?

A. Yes. And I lost possession of the ground.

Q. Then, as I understand, Judge Wickersham made—Let me ask you: Did Judge Wickersham recognize that the consideration for the transfer of the quarter interest referred to in this agreement had been performed?

Mr. CLARK.—We object as calling for a conclusion of the witness.

Mr. HEILIG.—Q. I will ask this witness to state what judge Wickersham said in regard to your right to the transfer of the quarter interest.

Mr. CLARK.—We object as hearsay.

The COURT.—He may answer, subject to the objection.

A. Wickersham agreed to make a deed to the quarter interest. But, so far as continuing the lay, he would not do it, because conditions had changed, and, before I could get a new lease from Wickersham, I had to assume a lot of extra heavy duties that didn't occur in the first lease. But, if I wanted to drop the lease altogether, he offered to deed to me the quarter interest.

Q. (By Mr. Heilig) I will ask you whether you recollect any statement on his part, that he admitted that you had performed the conditions of the transfer.

Mr. CLARK.—We object as hearsay and leading.

The COURT.—Do you (to Mr. Clark) contend that he had not?

Mr. HEILIG.—They are basing their title on that very fact.

The COURT.—Objection overruled.

A. At the time we surveyed the ground during—When Wickersham came in here, I took Wickersham to the ground and showed him the drill holes and showed him the bedrock that had been dumped out, and he was satisfied that those holes went to bedrock.

Mr. HEILIG.—Q. Who caused those holes to bedrock to be sunk?

Mr. PRATT.—We object as—(Interrupted)

A.—Mrs. Patterson.

Mr. PRATT.— —immaterial, not proper cross-examination.

The COURT.—Overruled (Plaintiff excepts. Allowed)

Mr. HEILIG.—It goes directly to the question of consideration.

Mr. PRATT.—It is part of their case.

Mr. CLARK.—We are not going into that consideration. We are going into the consideration of the deed from himself to his wife.

The COURT.—I think, when you went into the question of consideration, that it opened up the entire consideration.

Mr. CLARK.—This is the consideration moving from him to Wickersham for the previous transfer.

The only consideration we went into was whether or not on the 27th of November, 1911, any consideration passed from Mrs. Patterson to himself for this transfer.

The COURT.—I think it has a bearing on the consideration of the second transfer. If it has not, it is immaterial.

Then Mr. CLARK.—We except.

Mr. HEILIG.—Q. Your answer to my question was that Mrs. Patterson caused those holes to be sunk to bedrock.

A.—She did.

Q. She was the one, was she not, that caused the assessment work to be done for 1910 on the Daly Bench?

Mr. CLARK.—We object as leading (Sustained)

Mr. HEILIG.—Q. At whose expense were the drill holes sunk to bedrock in 1910?

A. Mrs. Patterson.

Q. Mariam A. Patterson, the defendant here?

A. Yes sir.

Q. I will ask you how many drill holes were sunk at her expense.

A. Two.

Q. And whether that was the performance, which you and judge Wickersham agreed upon, of the requirement of this agreement that a hole should be sunk to bedrock and the assessment work for 1910 should be done on that claim at your expense.

A. It was.

Q. Where did Mrs. Patterson get the money with

which she paid for sinking those holes?

A. It was in payment of a note which Mr. Hosler, my old mining partner in the Dawson country, and I, gave to her several years before we finished mining operations upon Ready Bullion. We had our settlement between ourselves as partners, then we paid this note to Mrs. Patterson.

Q. What is Mr. Hosler's given name?

A. Delbert G. Hosler.

Q. How did you and Mrs. Patterson generally refer to him?

A. As "Del" We always called him Del.

Q. Do you know how he signs his name generally?

A. Delbert G. Hosler.

Q. Always?

A. D. G. Hosler.

Q. You say you and Mr. Hosler gave Mrs. Patterson a note for money which you owed her?

A. Yes sir.

Q. I show you a writing and ask you if that is the instrument you refer to (Handing paper to witness)

A. Yes sir.

Q. Was that signed by you and Hosler?

A. Yes sir.

Q. And delivered to Mrs. Patterson at the time it bears date?

A. Yes sir.

Mr. PRATT.—We object as immaterial, and not proper cross-examination.

Mr. CLARK.—It is a matter of defence.

The COURT.—Objection overruled. It is a matter that could be introduced in defence, but I think it is proper cross-examination. (Marked Defendants Exhibit 4)

(Plaintiff excepts. Exception allowed)

Mr. HEILIG.—(Reads Exhibit 4)

“\$500.00 Dawson, Y. T. Oct 19 1905.

“Nine months after date, we promise to pay to Mrs. H. J. Patterson Five hundred and 00-100 dollars. Value received, at the rate of 2 per cent per month.

“Due July 19 1906. H. J. PATTERSON
D. G. HOSLER.”

Q. You say that at the time you gave her that note, it was for five hundred dollars which you had received from her as a loan.

A. Yes sir.

Q. You and Mr. Hosler.

A. Yes sir.

Q. And the five hundred dollars, she had received as part of the output of a mining claim which she owned.

A. Yes sir.

Q. In Dawson. What was the number or name of that claim?

A. It was a fraction between 45 and 46 below Discovery on Bonanza Creek.

Q. Can you state approximately how much money she realized from that claim, as royalty?

Mr. CLARK.—We object as immaterial, and it is not cross-examination. (Objection sustained)

Mr. HEILIG.—Q. After you had made this agreement with Mr. Wickersham that if you would sink a hole to bedrock and do the assessment work for 1910 he would convey to you a quarter interest, and you agreed to do it, what steps did you take to carry out the performance of your part of the agreement?

Mr. CLARK.—We object as already having been gone into. He testified he sunk two holes to bedrock.

Mr. HEILIG.—I am asking what steps he took to procure the performance of that agreement.

Mr. CLARK.—It is immaterial what steps he took. It is the ultimate fact that is material.

Mr. HEILIG.—We want to show that he went to Mrs. Patterson and stated the condition of facts to her and made an agreement with her that she should perform this contract, and that she should have the title to the property.

The COURT.—The objection is overruled.

(Plaintiff excepts. Exception allowed)

Mr. HEILIG.—I will ask you now: After you made this agreement with judge Wickersham, what steps did you take to bring about the performance of that part of the contract?

A. My first agreement with judge Wickersham was simply a verbal agreement. I came in and we talked the matter over, and he told me what he would do; he would give me a seventy five per cent lease and a quarter interest for sinking a drill holes and representation work.

Mr. CLARK.—That is not responsive.

A. (continuing) Then, after that conversation, we agreed to it then, and he said; "I will have those papers made out". And I went right out home, and, when I got home, I told Mrs. Patterson the agreement and proposition I had with judge Wickersham and told her that if she would sink the drill holes, or pay for the sinking of the drill holes, that she could have the quarter interest; that I would need the money. I had for operating the mine. And she consented to that. And I immediately went down and made the contract with the drill men to do it, and told Mr. Craig at the time—(Int—)

Mr. CLARK.—We object to what he told Mr. Craig as a self serving declaration.

The COURT.—That would be self serving.

Mr. CLARK.—We withdraw our objection.

Mr. HEILIG.—Q. You told Mr. Craig— Who was Mr. Craig?

A. Mr. Craig was the man actually in charge of the drill. There was Craig, Lee and Estby, I think were the partners in the drill, but Craig was looking after the business part of it. And I told him at the time that I had a lease and a quarter interest on the claim for sinking the drill holes, and that Mrs. Patterson was to pay for those holes and she was to have the quarter interest, and, if we found anything, that I would go ahead and open up the ground. That is as near as I can remember it. It was a long time ago.

Q. Now Mr. Craig went ahead—(Interrupted)

A. Mr. Craig moved the drill right up, and I came

on into town, as Mr. Wickersham was in a very big hurry to get his business settled up so he could get out, and we signed up the papers. And when I came back, I went up, took Mr. Craig up on the claim and showed him where to put the first hole—

Q. You signed up what you call the agreement dated the 19th of September, 1910?

A. Yes. And when I came back, he was down to bedrock in that first hole. He didn't find anything. and Mr. Craig had had a good deal of experience in drilling claims on the creek up above, and we were talking about it and he suggested futher over would be a better chance, and we went over to the left of the claim and started another hole, and that was put down 125 feet. The first one was 100 feet and the second one was 125 feet. . They charged a dollar a foot.

Q. Did you find anything in the second hole?

A. Just a few colors, a very few, small and fine.

Q. How much was the charge for those services?

A. Two hundred and twenty five dollars.

Q. Who paid for it?

Mr. PRATT.—We object to that—(Int—)

A. Mrs. Patterson.

Mr. PRATT.—(Continuing) —because it is not shown that he knows, or how he knows.

Mr. HEILIG.—Q. How did she pay for it?

A. By check.

Q. I show you a paper now, and ask you whether that is the check with which Mrs. Patterson paid Mr.

Craig for that work. (Hands same to witness)

A. Yes sir.

Q. Did you see that check before it was delivered to Mr. Craig?

A. Yes sir.

Q. You saw Mr. Craig take the check?

A. Yes sir.

Q. You are familiar with Mrs. Patterson's signature?

A. Yes sir.

Q. Did you see her sign the check?

A. Yes sir.

Mr. HEILIG.—We offer it in evidence.

Mr. CLARK.—Same objection; not cross-examination.

(Objection overruled. Plaintiff excepts; allowed)

(Marked Defendants Exhibit 5)

Mr. HEILIG.—(reads) "Fairbanks, Alaska, Sept. '21, 1910. Washington-Alaska Bank. Pay to the 'order of Fred Craig \$225.00 Two Hundred, Twenty 'five 00-100 dollars. Mariam A. Patterson." Indorsed with the name of Fred Craig. Also indorsed; "Fairbanks Banking Co". It is drawn on the Washington-Alaska Bank with perforations reading: "Paid 9-23-10".

Q. You say that after that work of sinking those two holes was done and this money paid, you came to town to see judge Wickersham.

A. Yes sir.

Q. How soon did you do that?

A. I think it was probably the next day. Not more

than two days I don't think.

Q. Did you find the judge in town?

A. No. I met you on the corner down here and told you that I had put the holes down, and you said judge Wickersham had gone and you might possibly catch him at Gibbon, by wire.

Q. Then what did you do in regard to securing a conveyance of the quarter interest to you or to Mrs. Patterson?

A. When the papers was made out, I asked judge Wickersham—(Int)

Q. Just a minute. What I want to direct your attention to: Did you do something while the judge was away, in regard to—(Int)

A. No, only the man that he left in charge of his business before the judge went away was Henry Roden, and he went down below.

Q. Where?

A. Here.

Q. Went below where?

A. Down to Iditarod.

Q. Did you do anything in regard to securing a conveyance of that quarter interest, before Wickersham got back again from Washington?

A. No.

Q. For the purpose of the record, can you state what Mr. Wickersham's business at Washington was?

A. He was Delegate from Alaska.

Q. Now, after judge Wickersham returned, just state what you did in regard to securing this conveyance; what you said to him, and in regard to

securing this new lease?

Mr. CLARK.—We object for the same reasons; immaterial and not cross-examination.

The COURT.—Overruled (Plaintiff excepts. Exception allowed)

A. Well, of course, I had made—We had lost possession of the ground at that time, and Wickersham, when he came in, we were talking it over, and he was scolding me soundly for neglect in not going ahead with the lease and keeping possession of the ground, and insisted that I pay the expense of recovering the ground before I could get a new lease.

Q. The Daly Bench had been jumped during that time?

A. Yes sir.

Q. By whom?

A. By the Happy Home people.

Q. Those were the Happy Home people that counsel referred to in his examination in chief?—

A. Yes.

Q. —when he spoke to you about them having found the pay channel.

A. Yes sir.

Q. And the owners of the Happy Home—(Interrupted)

A. Had overlapped the Daly Bench entirely.

Q. —they were claiming the Daly Bench as part of the Happy Home location?

A. Yes sir.

Q. That contention was well known among the public, wasn't it?

A. Yes sir.

Q. There was considerable contention over the question, and threatened litigation?

A. Yes, indeed, very high feeling.

Q. I believe you stated in your direct examination that that dispute was compromised.

A. It was.

Q. How was it finally compromised?

Mr. PRATT.—We object to this. This doesn't seem to be showing the original consideration for this quarter interest. He is getting beyond the scope of his alleged proof.

The COURT.—What time do you refer to now?

Mr. HEILIG.—Just shortly before this deed was made to his wife.

The COURT.—Objection overruled. (Plaintiff excepts; allowed)

Mr. HEILIG.—Q. When was that dispute with the Happy Home people adjusted?

A. It was adjusted I think the morning that the deed was made out—that was recorded.

Q. Recorded?

A. Yes. I think our meeting was in the morning, and in the afternoon Wickersham and I went over to the recording office and recorded all the papers.

Mr. HEILIG.—Will counsel agree that on November 10, 1911, the compromise with the Happy Home people—(Interrupted)

Mr. PRATT.—I will furnish a copy of the agreement and the deeds, and you can put it in evidence (Hands same to Mr. Heilig)

Mr. HEILIG.—Q. So, on November 10, 1911, they finally settled the dispute with the Happy Home people.

A. Yes sir.

Q. By giving them how much of the Daly Bench?

A. Seventy five—(Interrupted)

Mr. PRATT.—I object as not the best evidence.

The COURT.—If you want to limit your question to when it was settled, you may do so; if you want to go further, I think the instrument itself should be introduced.

Mr. PRATT.—It is a conclusion as to the settlement, anyway.

The COURT.—That may be, too.

Mr. HEILIG.—Q. This deed from judge Wickersham to you; when was that delivered to you?

A. It was delivered on the date of the compromise.

Q. November 10, 1911?

A. Yes.

Q. It bore date the 14th of October, and was acknowledged on that date. I will ask you to state what caused the delay in the delivery of the deed, after the judge had signed it?

A. It was the probable litigation over the title to the Daly Bench.

Q. Were you present at the time Mr. Wickersham signed this deed, or did you speak to him about making the deed before he signed it?

A. Yes sir.

Q. What did you state to him in regard to the

person to whom the deed should be made?

Mr. CLARK.—We object as immaterial, not cross-examination, and self serving.

The COURT.—Overruled. (Plaintiff excepts. Allowed)

A. I asked judge Wickersham to make the deed to Mrs. Patterson.

Mr. HEILIG.—Q. Did you state to him any reason why it should be made to Mrs. Patterson?

A. Yes. Because she paid for the sinking of the drill holes. Judge Wickersham says: "I will not be "here. And I don't want to do any business with "anybody else but you, and" he says "it always hinders and balls things up to—(Interrupted)

Q. What did he say about—(Interrupted)

A. He says: "You can transfer the deed to any—"one you like".

Q. Instead of going to work as a layman under your first lease on the Daly Bench, where did you go to mining?

A. I went into a lease with Charles Tolbert on the Tolbert Bench first tier, a bench opposite 4 below Ester Creek, left limit, directly below, between the Daly Bench and the creek.

Q. How soon after these holes had been sunk to bedrock on the Daly Bench that Craig sank?

A. I think I have a time book here (produces book). No I have not the right time book here. It was a week, possibly two weeks, something like that.

Q. I believe you stated that previous to that time you had been working on Ready Bullion.

A. Yes sir. I was with the Ready Bullion Mining Company.

Q. I will ask you to state whether that was profitable.

A. Yes sir. It was.

Q. So that, at the time these holes were sunk for which Mrs. Patterson paid, you had money?

A. Yes sir.

Q. And that money you used in your work on the Tolbert Bench.

A. Yes sir.

Q. How long did you continue mining there?

A. I mined there about six weeks. It was a wet shaft, and it took six weeks to put the shaft to bed-rock and drift twenty or thirty feet.

Q. You had had considerable experience in working what is known as wet ground.

A. Yes sir, about eight or ten years experience in it.

Q. That fact was pretty generally known in this community.

A. Yes sir.

Mr. CLARK.—We object, as irrelevant, incompetent and immaterial.

Mr. HEILIG.—Q. Now, then, as a result of that experience, just state how you came to operate on Last Chance claim on Engineer?

Mr. PRATT.—We object to that as immaterial.

(Mr. Heilig states the purpose of the testimony, but the objection is sustained)

Mr. HEILIG.—Q. Where did you dispose of the cleanups that you made on the Last Chance claim?

A. At the American Bank.

Q. You mean the American Bank of Alaska?

A. The American Bank of Alaska, yes.

Q. On what bank did you draw checks in payment for supplies and labor?

A. On the American Bank of Alaska.

Q. Now, counsel has asked you whether you transferred this lay that you had on the Last Chance claim. What lay was that?

A. That was—(Interrupted)

Q. State where and how you got that lay.

Mr. PRATT.—We object as immaterial. (Argument)

Mr. HEILIG.—Q. Counsel has asked you whether you didn't transfer your lay on Last Chance claim just about the end of November. Can you state to the Court what the transactions were with reference to that lay, and your mining operations about that time on that lay?

Mr. PRATT.—We showed that simply for the purpose of showing that it was practically worthless. We didn't put that in to show any fraud in transferring that particular lease on the Last Chance.

Mr. HEILIG.—Will you admit that that lay was transferred to the creditors for their benefit?

Mr. PRATT.—Yes. And we will also admit that they didn't get anything out of it, except some of the laborers got twenty six per cent.

The COURT.—I do not see that that has any bearing on this case.

Mr. HEILIG.—Q. Counsel has called attention to

the fact that in the deed that you made to Mrs. Patterson on the 27th of November, 1911, the consideration is stated to be one dollar. I will ask you whether that was the true consideration.

Mr. CLARK.—We object as he has already gone into that question of consideration.

The COURT.—Overruled.

(Plaintiff excepts. Exception allowed)

A. No, I didn't consider that the true consideration. I thought it was simply a matter of form.

Mr. HEILIG.—Q. When you executed this deed to Mrs. Patterson, why did you make her a deed to the property?

A. Because she was entitled to it.

Q. Why was she entitled to it?

A. Because she had performed that part of the agreement.

Q. That is—(Interrupted)

A. The conditions of that Wickersham agreement.

Q. The agreement between you and her?

A. Yes sir, and the conditions of the Wickersham agreement.

Mr. HEILIG.—That is all.

(Trial continued until Saturday, September 27th, 1913, at 11 o'clock A. M.)

Saturday, September 27, 1913, 11 A. M. Trial resumed.

H. J. PATTERSON, resumes his testimony, as follows:

REDIRECT EXAMINATION.

Mr. PRATT.—Q. Where do you claim Mrs. Patterson got the \$500.00 for which you say the Hosler note was given?

A. It was royalty from a fraction between 45 and 46 below Discovery on Bonanza Creek in the Dawson country.

Q. Royalty?

A. Yes. She staked the claim herself.

Q. She staked it herself?

A. Yes.

Q. You were there telling her how to do it. were you?

A. I assisted her. Yes.

Q. You had operated there, had you, in the Yukon country—Yukon Territory?

A. Yes sir.

Q. And you had gone broke up there, hadn't you?

A. I had in one instance. Yes.

Q. And all that you left there with was this claim in her name. Isn't that true?

A. No. She didn't have the claim at that time. She had disposed of it to Treadgold before that.

Q. She had already disposed of it?

A. Yes sir.

Q. Sold it outright?

A. Yes sir.

Q. When was it you left there?

A. I left there the fall of 1907.

Q. Who was working this claim when the royalties were paid into her?

A. My partner, Mr. Hosler.

Q. And you?

A. I was a partner with him there at that time. I was foreman for the N. A. T. Company on 79 below on Bonanza, and Mr. Hosler took charge of this work, carried it through until sometime in September.

Q. What was the \$500.00 used for by you and Mr. Hosler?

A. We were interested in claims on the left limit, bench claims, with Hiram McIntosh. And when we bought into these claims, the parties on top of the hill were pumping water up and hydraulicking, and we had given them dumping privileges for the use of the water. The next spring they removed their plant to another place, and their tailings and everything, and we were without water. We had put our money into it, but we had nothing but sniping really there.

Q. Were you not a half owner with your wife in that fraction?

A. No. No.

Q. You owned absolutely nothing in it?

A. Nothing in it whatever.

Q. You had no interest in the royalties?

A. No sir. None.

Q. Or the selling price of it?

A. No sir. I was working for the N. A. T. Company.

Q. And she kept the royalties and the selling price after she got down here into Fairbanks?

A. No. She went outside in 1906.

Q. And you went with her, didn't you?

A. I did.

Q. And the two of you spent that money.

A. No. Not all of it.

Q. You helped her spend it, didn't you?

A. I went out with her. Yes.

Q. Isn't it a fact that you considered that your money?

A. No. I never did. I had a chance to work for the "Guggs" but she insisted upon me going, as she didn't want to go alone.

Q. Didn't she stake that claim for your benefit?

A. No sir.

Q. You went out in 1906, and when did you come back?

A. I came back in February, 1907.

Q. Where did you come to?

A. To Dawson.

Q. Did you mine up there again?

A. No. I went to work for the Guggs, for the Yukon Gold Company.

Q. Did you do any independent mining up there?

A. No, nothing but to represent the bench claims.

Q. When did you come to the Fairbanks Precinct?

A. I think it was about the first of October, 1907.

Q. And you commenced mining here, didn't you?

A. No. I went to work for wages. When I came—I did do a little mining out here on Ester Creek, took an option on a piece of ground.

Q. When was that?

A. That was in October—November, I believe,

1904, on 4 below.

Q. Did you make any money on that?

A. No.

Q. You went broke again?

A. I went a little behind, but I paid that up.

Q. How much money did you have to put into that lay?

A. There?

Q. Yes, to start it out?

A. I think it was about \$150 or \$200. Mr. Heimburger and I were together on the proposition. It was simply an option on the ground, testing the ground. It was only a question of testing the ground, as Mr. Heimburger and judge Erwin offered to back up the proposition. I was simply testing the ground for them.

Q. How much did you go behind on that proposition?

A. About \$400.

Q. Is that all?

A. Yes.

Q. Did you ever get that paid?

A. Yes sir.

Q. When?

A. When I finished mining on Ready Bullion. I gave a note to the Ester Mercantile Company, and I paid that.

Q. That was in 1907, wasn't it?

A. That mining was in 1907, but it was 1910 that I paid the note.

Q. What did you do after you quit mining in 1907?

A. Well, I went into a mining deal with judge Erwin and Heimbürger and Billy Atchison.

Q. Where was that?

A. On the **right** limit bench, directly upstream from this.

Q. How did you come out on that?

A. We came out quite a ways behind.

Q. Behind again?

A. Yes.

Q. What did you do after that?

A. I took a lay on Bigelow's Fraction 8 A below on Ester Creek.

Q. What year was that, and what time of the year?

A. I think it was sometime in 1909 or 1908. Let me see.

Q. Fall of 1908?

A. Spring of 1909.

Q. How did you come out on that?

A. I just made wages. I made just about wages on that.

Q. Didn't you go broke on that?

A. No.

Q. Didn't you?

A. Just about pulled even on that proposition.

Q. When you got through, you had not paid in all your royalty, had you?

A. I paid all of the royalties.

Q. Mr. Bigelow, the owner of that claim, claimed that you were behind in the royalties, did he not?

A. Yes. But that was a very much disputed propo-

sition, what Bigelow claimed.

Q. How much did he claim you were behind?

A. The only thing Bigelow claimed was some rental on machinery. There were two cleanups towards the last on which there was no royalties paid on it, but that was by agreement by Mr. Bigelow between Heimburger and I.

Q. Mr. Bigelow wouldn't agree that that royalty should be taken, afterwards, didn't he? Didn't he claim that it was still due him?

A. No. I will have to explain the proposition.

Mr. HEILIG—They are going into matters that are immaterial.

The COURT.—This is a collateral matter, it seems to me. The objection will be sustained. (Plaintiff excepts)

Mr. PRATT.—Q. When did you get through with the lay on Bigelow's ground?

A. I think it was September, 1909.

Q. Did you owe any wages to the men?

A. I paid all the wages.

Q. Every single one?

A. Yes.

Q. Did you do any more mining on Ester that year?

A. Not on Ester.

Q. You are sure you paid all the wages?

A. There was—(Interrupted)

Mr. HEILIG.—I don't see that this is material.

A. I have receipts for all the wages.

Mr. HEILIG.—All right. Let it go at that.

Mr. PRATT.—Q. What does it mean in your petition in bankruptcy where the list of creditors claims are included; James Dolan Residence, Iditarod, Alaska, Wages earned on Ester Creek in 1909, \$200?

Mr. HEILIG.—They are cross-examining their own witness on immaterial matters, and they cannot impeach their own witness on immaterial matters even if they were trying to do it independently, but they are trying to do it on cross-examination.

Mr. PRATT.—It shows this man was broke all this time. He was living all this time and his wife had money all this time. It has a tendency to show there was some secret arrangement between himself and his wife even then.

WITNESS.—Mr. Dolan didn't work on that ground at all. I paid all the wages that were on that.

Mr. PRATT.—I will show right now that he didn't pay all the wages, by his own statement in writing.

The COURT.—This proposition having been called up by you, I do not think that you are entitled to impeach him by that kind of testimony. You may show other statements he made at other times.

Mr. PRATT.—This is another statement he made at another time, and I ask him to explain it.

The COURT.—He has explained it.

WITNESS.—Mr. Dolan didn't work down there.

Mr. PRATT.—Where did he work?

A. He worked—(Interrupted)

Mr. HEILIG.—We object to that—

The COURT.—Objection sustained. (Plaintiff excepts)

Mr. PRATT.—Q. When did you get through with that lay on the Bigelow ground?

A. I don't know the exact date, but it was sometime in the fall of 1909.

Q. What did you do the rest of that year?

A. Mr. Heimbarger and I went up on No. 6 Ready Bullion, with Mr. Atchison and Charley Patton.

Q. Up to that time you had done nothing except mine in the Fairbanks Precinct, had you?

A. Mined, and worked for wages some.

Q. When did you work for wages?

A. On Dome, when I first came down here, the first winter I came down.

Q. How long did you work for wages?

A. Two or three months.

Q. That is all the work you did, except mining, up to the time you took the lay on Ready Bullion?

A. I think so.

Q. And you had gone broke on each separate mining venture, had you not?

A. I didn't make anything on the Bigelow ground, but I didn't lose anything.

Q. You had gone broke on all the others, hadn't you?

A. Yes.

Q. What were you living on during all of that time?

A. I was living on credit.

Q. What?

A. I lived on credit.

Q. Your wife had money all that time, hadn't she?

A. No, not in here. My wife wasn't in here.

Q. She had money outside, hadn't she?

A. She had very little money. What she had, she had her's. It was her own. I sent her what money I could.

Q. Now, you went to work on your lay on Ready Bullion in the spring on 1910, did you?

A. No, it was the winter of 1910; the fall of 1909 and the winter of 1910. This lay that I speak of on Number 6 is a prospecting^{*} proposition that Heimburger and Patton and Atchison and I entered into. But the Iditarod stampede came up, and we called that off. We just started to finish a bedrock drain that McQuarie and Jones had started. We intended to open up and work, but we didn't do very much.

Q. What did you do after that?

A. I went then into the Ready Bullion Mining Company with with Hosler and Clark and Gardner.

Q. When did you start that?

A. I think it was in the latter part of October or in November, 1909.

Q. How long did you work at it?

A. Until sometime in June, I believe, 1910.

Q. You made a little money there, did you?

A. Yes. We paid up \$15,000 of McGregor's old indebtedness, besides making a pretty good profit.

Q. Then you say you and Hosler paid this note to Mrs. Patterson.

A. Yes.

Q. When was that paid?

A. I don't know the exact date, but it was after the settlement, sometime during the summer there after the settlement between Hosler and I and the Ready Bullion Mining Company.

Q. Where is Hosler now?

A. Hosler is in the Hot Springs.

Q. He paid his part separately, did he?

A. Yes sir.

Q. Did he pay it direct to Mrs. Patterson?

A. He did. We were all in the cabin together and made the settlement.

Q. Did you pay yours at the same time?

A. No. I deposited \$300.00 for her in the Washington-Alaska Bank.

Q. How long after Hosler paid his share?

A. Well, it was some few days; the next tript to town.

Mr. HEILIG.—Wait—

Mr. PRATT.—Q. Was the note delivered to Hosler when he paid his share?

A. Yes.

Q. It was delivered to Hosler?

A. Yes.

Q. Why wasn't it marked "paid"?

A. I don't know. We got up and went away, and probably overlooked it. He didn't take it with him—Something of that kind.

Q. When did you get this from Hosler?

A. What?

Q. This note?

A. It was left at our house.

Q. I thought you said that the note was delivered to Hosler when he paid?

A. It was right there. The settlement was in our cabin, and in some way in taking his papers home the thing was left there somehow. I don't know. I noticed it afterwards, and put it away with the papers.

Q. You noticed there was no mark of anything on it?—

A. I didn't pay any attention to that.

Q. —showing it had been paid?

A. I didn't pay any attention to that.

Q. Did Hosler ever inquire into the note after that?

A. No. I wrote to Mr. Hosler when this case came up, and wanted him to come as a witness. He wired me that he had hard luck this summer, and that they were moving and building a cabin, and he said it would be dreadful for him to come now, and he wanted to know if I couldn't take his deposition.

Q. You made no attempt to take his deposition?

A. After Mr. Heilig thought that they wouldn't need his deposition

Q. When was it you first made the arrangement with Mr. Wickersham to sink a hole to bedrock on the Daly Bench and get a quarter interest?

A. Well, I don't know as I could give just exactly the date, but it was just a very few days before the work was done. I came to town and I asked judge Wickersham for a half interest in the Daly Bench for

sinking a hole to bedrock. The judge says: "I will "give you a quarter interest and a seventy five per "cent lease on the whole of the claim".

Q. Didn't that take place in August, in the latter part of August?

A. Just before the judge went out. He was packing up and was very anxious to get away. He only had two or three days, I think it was, in which to get out. So, after we agreed on the proposition, he went into his stenographer and told him what he wanted made out. I went out home that evening.

Q. The agreement is dated the 19th of September, 1910. How many days before that was it you had the conversation with Mr. Wickersham?

A. I think it was the day before, or possibly two days before; not more than two days before, I don't think.

Q. And you went right out after the conversation?

A. That is the best of my recollection.

Q. And you talked it over with you wife then and told her if she would furnish the money she could have the quarter interest?

A. Yes.

Q. Did you tell her that you would convey it to her?

A. I told Mrs. Patterson that if she would pay for sinking the drill holes, she could have the quarter interest.

Q. Did you say you would have Wickersham make her a deed?

A. I didn't refer to that.

Q. Or did you say you would give her the quarter?

A. I don't remember that.

Q. You came right back to town then and got this agreement, did you?

A. No. I went down and made the contract with the drill men, and took Mr. Craig up and showed him where to put the hole, where I thought would be the best chance.

Q. Did you say anything to Mr. Craig about Mrs. Patterson having an agreement with Wickersham to get a quarter interest?

A. I did. I says; "Your money is ready for you whenever the work is finished. Mrs. Patterson is to have the quarter interest. I have a lease and a quarter interest for putting—a quarter interest for putting the drill holes down, and a lease on all the ground".

Q. You said you had.

A. I says; "Mrs. Patterson will have the quarter interest for paying for the drill holes".

Q. You are sure you told him that?

A. Yes, I am sure that I told him practically that. I couldn't give the exact words, it is so long ago that I can't remember exact words, but it is just as near as I can remember that is the conversation.

Q. Isn't it a fact that you told Mr. Craig that you were to get a quarter interest. And that he then said; "Well, I can't work for you unless you pay me cash." And you said: "Well, Mrs. Patterson will have a check for you."

A. No.

Q. That is not it?

A. No.

Q. You testified in your examination here that Mrs. Patterson caused these holes to be sunk to bed-rock.

A. Well, as soon as she agreed to sink the holes, to pay for the sinking of the holes, I went and made the deal with the drill men to complete that contract.

Q. You testified before the referee in bankruptcy at the first meeting of the creditors?

A. I believe I did.

Q. Didn't you say something like this: You were asked; "Q. Did you sink the hole"? referring to the hole on the Daly Bench, And you answered; "A. I "caused it to be sunk." Didn't you make that answer before the referee?

A. Well, something—I made an answer something of that kind. I couldn't say just exactly the words.

Q. You didn't say anything about Mrs. Patterson causing it to be sunk, did you?

A. I don't remember now.

Q. Your agreement with Wickersham was a personal agreement between you and him, wasn't it, that you were to have the interest?

Mr. HEILIG.—Which agreement do you refer to; the written agreement?

Mr. PRATT.—The oral agreement now.

A. Yes sir.

Q. You didn't say anything about Mrs. Patterson to him, did you?

A. Not the first agreement.

Q. After you saw Craig, you then came back to Fairbanks again, did you?

A. Yes sir.

Q. And got the written agreement.

A. Yes.

Q. Did you tell Mr. Wickersham then that Mrs. Patterson was to have the quarter interest?

A. I asked Mr. Wickersham if the deed couldn't be made out to Mrs. Patterson; that she was paying for the drill holes, and Mr. Wickersham says; "I don't want— I will not be here, and I don't want to confuse the matter and have to do business with anybody but you. But I will make a deed to you when the work is performed, and you can make it to whoever you like."

Q. You told him that before you signed up the agreement of the 19th of September?

A. It was at that time.

Q. Before you signed that up, you told him about that, did you?

A. Yes.

Q. In that written agreement you were to make an affidavit of the annual work for 1910, were you not?

Mr. HEILIG.—We object to asking the witness as to the contents of a written agreement, or writing signed by him, without exhibiting the writing.

Mr. PRATT.—Q. Did you make that.

The COURT.—Objection sustained.

Mr. PRATT.—Q. Did you make any affidavit that you had done the assessment work on the Daly Bench?

A. No. I did not.

Q. You never filed any, did you?

A. No.

Q. This agreement of the 19th of September, 1910, which you have signed, in one part here says; (reads) "And the said party of the second part does hereby specially agree not to assign this lease or lay, or any interest therein or thereunder, and not to sublet or sub-lease the said demised premises, or any part thereof, nor to permit the same nor any part, interest or title therein to pass to any other person whatever without the written consent of the party of the first part first had and obtained." Now, just after telling judge Wickersham that Mrs. Patterson was to have that quarter interest, you signed this agreement in which that statement appears, didn't you?

A. Well, I don't know just exactly the particular time, but the conversation was during the time that the papers were signed up.

Q. Did you get any written agreement from Mr. Wickersham that that you could transfer this quarter interest to Mrs. Patterson?

Mr. HEILIG.—We object as immaterial. The only person who could complain about that is judge Wickersham, and he has never complained.

The COURT.—Overruled.

A. No, I never did.

Mr. PRATT.—Q. Was Mrs. Patterson in partners with you on the lease that you had on the Daly Bench then?

A. No sir.

Q. Her agreement with you was that she should sink a hole to bedrock and be entitled to a one-quarter interest?

A. Yes sir.

Q. Why did she sink two?

A. Well, it called for representation work. And I think it calls for two holes to bedrock and for representation work for 1910.

Q. How many feet down was the first hole they sunk?

A. The first hole was I think 100 feet.

Q. How much did they charge you a foot?

A. A dollar a foot.

Q. When that first hole was sunk, sufficient money had been expended for representation work, hadn't it?

A. Well—(Interrupted)

Q. Why was the second hole sunk? You have no explanation?

A. Well, to comply with that agreement, with the conditions.

Q. Can you point out any part of this agreement that would require a second hole? Would you like to look at it and see?

A. No. I don't care to look at it.

Q. Isn't it a fact that Mrs. Patterson at that time was handling your money and keeping it in her

own name and writing out checks for your business on the 19th—(Interrupted)

A. No sir.

Q. —of September, 1910?

A. No sir.

Q. Isn't it a fact that the sinking of those holes was your own personal business, and that you had her write out a check for your benefit?

A. No sir.

Q. Wasn't the second hole that was sunk on the Daly Bench merely for the purpose of doing prospecting under the lease?

A. Well, no, I don't think it was.

Q. You don't think so?

A. No.

Q. What was it for, then?

A. Well, as I say, to fulfill the conditions.

Q. One hundred dollars had been spent on the first hole?

A. One hole to bedrock to represent it, as representation work for 1910.

Q. How much did you think it took for representation work?

A. Well, I didn't know for sure what the representation work—whether drill holes would constitute it.

Q. You didn't know whether one hundred dollars was a sufficient amount at that time?

A. Whether 100 feet of drill hole would count that.

Q. Well, now, if one drill hole wouldn't count, why did you think two would?

A. Well, it would be enough. It would be sure to be enough.

Q. Didn't you know that the law only required one hundred dollars worth of work to be done?

A. Well, possibly.

Q. And you knew that the first hole cost one hundred dollars?

A. Yes.

Q. Still you thought if you drilled that first one that you had to drill a second one to comply with the agreement.

Well, I don't remember exactly. I didn't pay much attention to it, but to have enough done.

Q. Anyway, after those holes were dug, you regarded this property as Mrs. Patterson's, did you?

A. I did that quarter interest.

Q. That is the quarter interest.

A. Yes.

Q. You held this agreement of September 19th, 1910 in your possession and recorded it on the 14th day of November, 1911, didn't you?

A. Yes sir, at that time.

Q. If you still considered it Mrs. Patterson's property, why did you file this agreement which showed that you were to have the quarter interest?

A. Because Mr. Wickersham was out of the country, and we had no deed to it, no chance to get a deed to the quarter interest.

Q. You didn't file anything at that time showing that you had made any agreement with Mrs. Patterson to transfer your right to the quarter in-

terest, did you?

A. No.

Q. Now, on the 14th day of October, 1911, Mr. Wickersham executed a deed to this quarter interest to you, didn't he?

A. What date?

Q. 14th of October, 1911.

A. It was somewhere near that time. I don't remember the exact time.

Mr. PRATT.—Have you the original of that deed, Mr. Heilig?

Mr. HEILIG.—Yes. (Hands paper to Mr. Pratt)

Mr. PRATT.—Q. Did you file that deed of record.

A. That is the deed to the quarter interest?

Q. Yes.

A. Mr. Wickersham and I were together, filing all the papers—the compromise papers with Wheeler and Wickersham.

Q. You read it over, did you?

A. Yes sir.

Q. This says on the back of the original; (reads) "Filed for record at the request of H. J. Patterson". You admit that you recorded this?

A. Yes.

Q. You read it over before you recorded it?

A. Wickersham handed the papers in, and I paid for the recording.

Q. You read it over?

A. Yes. I think I did.

Q. Did you notice it says: "Said conveyance is "made in consideration of the doing of the assess-

“ment work thereon by the vendee in the year 1910, “in compliance with the United States Statute” Did you notice that?

A. Yes sir.

Mr. PRATT.—I will offer this in evidence. (Marked Plaintiffs Exhibit B)

PLAINTIFFS EXHIBIT B.

THIS INDENTURE made the 14th day of October, in the year of our Lord one thousand nine hundred and eleven, BETWEEN James Wickersham, the party of the first part, and H. J. Patterson, the party of the second part,

WITNESSETH That the said party of the first part, for and in consideration of the sum of One dollars lawful money of the United States of America, to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, remised, released and forever quit-claimed, and by these presents does grant, bargain, sell, remise, release and forever quit-claim unto the said party of the second part, and to his heirs and assigns

An undivided one quarter interest in and to that certain Bench placer mining claim situate in the Fairbanks precinct Alaska, on the left limit of Ester Creek, and known as the Pat Daly bench placer mining claim, and being the second bench claim on the left limit and about opposite of No. 3 creek claim below Discovery on said Ester Creek, and located by Pat Daly on December 1st, 1905.

Said conveyance is made in consideration of the

doing of the assessment work thereon by the vendee in the year 1910, in compliance with the United States Statute.

TO HAVE AND TO HOLD all and singular, the said premises, together with the appurtenances and privileges thereunto incident, unto the said party of the second part, his heirs and assigns forever.

IN WITNESS WHEREOF the said party of the first part has hereunto set his hand and seal the day and year first above written.

JAMES WICKERSHAM (Seal)

Signed and executed in the presence of

ALBERT R. HEILIG

C. E. WRIGHT

United States of America

Territory of Alaska.—ss.

THIS IS TO CERTIFY: That on this 14th day of October, A. D. 1911, before me, the undersigned, a Notary Public in and for the Territory of Alaska, duly commissioned and sworn, personally came James Wickersham, to me known to be the individual described in and who executed the within instrument, and acknowledged to me that he signed the same as his free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year in this certificate first above written.

(Notarial seal)

ALBERT R. HEILIG.

Notary Public in and for the Territory of Alaska,
residing at Fairbanks.

(Indorsed)

35158. QUIT CLAIM DEED. From James Wickersham to H. J. Patterson Dated.....19. UNITED STATES OF AMERICA. Territory of Alaska ss. Filed for record at request of H. J. Patterson on the 10 day of Nov 1911 at 45 Minutes past 9 A. M. and recorded in volume 15 of Deeds, Page 445. Records of Fairbanks Precinct, Territory of Alaska. JOHN F. DILLON Recorder. By C. E. Wright.

Mr. PRATT.—Q. Now, on the 12th day of October, 1911, Mr. Wickersham executed a lease to you on the Daly Bench, did he not?

Mr. HEILIG.—I want to object to the method of examination. This witness has testified on direct examination that, while these instruments bore date as of the date counsel speaks of, the delivery of them was withheld until the settlement was made with the conflicting claim owners; that it was on the 10th of November when that compromise was effected, and that then delivery was made of these papers. I think he should call the attention of the witness to the fact that the papers were signed and executed before their delivery.

Mr. PRATT.—Q. Defendants' Exhibit 2 on this trial, the same being a lease dated the 12th of October, 1911, from James Wickersham to yourself, signed by yourself, on the second page thereof reads as follows: (reads) "As part consideration of this "lease, the party of the second part"—that is yourself—"agrees that his undivided one-quarter interest "in said premises shall be covered and included in

“the terms of this lease and shall also at all times be
“subject to any debtsm defaults or damages result-
“ing from the working under this lease, for violations
“thereof, and the said Daly claim shall at all times be
“worked and considered as a whole between the par-
“ties hereto, and all subject to the terms of this
“lease and it is specially agreed that the party of the
“first part shall have a first lien upon the whole of
“the output of of the whole of the Daly claim, in-
“cluding the undivided one-fourth interest of the
“party of the second part for the payment of the roy-
“alty reserved to the party of the first part and the
“performance of the terms of this lease” Now, if
you considered that claim Mrs. Patterson’s, where
did you consider that you had the authority to bind
her quarter interest in the claim for the proper work-
ing of the lease, the payment of the royalties, and
the payment of all debts in working the claim? Can
you explain that?

A. Well, the legal title to it was in my name.

Q. And you were binding the whole interest?

A. And I didn’t think there was any danger of
anything of the kind.

Q. Although you considered it her claim, you were
in writing stating it was your claim. Have you any
explanation to make of that?

A. Excepting that the title was in my name.

Q. In this same instrument, it reads in another
part: (reads) “and the party of the second part
“further agrees that his undivided one-fourth in-
“terest shall be held liable to the party of the first

“part for all liens or other claims made or adjudged against said property which shall in any way become a charge upon the interest of the party of the first part.” Have you any explanation to make of that statement there, that you were the owner of a one-quarter interest, and that you were binding there that one-quarter interest for the performance of this lease?

Mr. HEILIG.—We object, as needless repetition.

The COURT.—It seems to me that would be a proper question to be asked by the other side. You are not cross-examining the witness. He is your witness.

Mr. PRATT.—He is our witness, but he is an adverse witness.

The COURT.—You have introduced writings there which you claim sustain your contention, and now you are trying to get evidence against them—to cause this witness to put in evidence for the defence.

Mr. HEILIG.—I am willing to let him do that, but I want to shorten this matter, as the witness has already testified concerning it.

The COURT.—Objection sustained. (Plaintiff excepts)

Mr. PRATT.—Q. In another part of this same lease, it reads: (reads) “And the party of the second part does hereby specially agree not to assign this lease or lay or any interest therein or thereunder and not to sublet or sublease the said demised premises or any part thereof nor to permit the same nor any part thereof nor any interest therein to pass to

“any person whatever without the written consent of
“the party of the first part had and obtained, and this
“prohibition shall extend to the undivided one fourth
“interest belonging to the party of the second part
“as fully as to the interest belonging to the party
“of the first part”. Did you get any written agree-
ment from judge Wickersham to transfer that quar-
ter interest to Mrs. Patterson?

A. No.

Q. Now, Mr. Patterson, there was an agreement entered into between the Happy Home People and yourself and Mr. Wickersham, was there not?

A. Yès sir.

Mr. PRATT.—Have you that original, Mr. Heilig?

Mr. HEILIG.—I think so. The compromise of the dispute. (Hands a paper to Mr. Pratt)

Mr. PRATT.—Is that your signature (hands paper to wit.,)

A. That is. Yes.

A. Did you file this of record?

A. They were all filed at the same time.

Q. You notice the recorder's certificate here states: (reads) “Filed for record at the request of H. J. Patterson”. You filed it, did you?

A. I paid for all of them. Mr. Wickersham was present, though at the time they were filed.

(Here a recess is taken until 2 P. M. today.)

September 27, 1913, 2 o'clock P. M.

H. J. PATTERSON resumes his testimony on re-direct.

Mr. PRATT.—I offer this agreement.

Mr. HEILIG.—No objection.

(Marked Plaintiff's Exhibit C)

PLAINTIFF'S EXHIBIT C

THIS AGREEMENT made and entered into on the 8th day of November, A. D. 1911, by and between M. Wagner, C. Wichman, G. Wheeler, M. Beegler and E. M. Horner, parties of the first part, and James Wickersham and H. J. Patterson, parties of the second part, all of Fairbanks Precinct, Alaska,

WITNESSETH:—That the parties of the first part did on or about June 6th, 1908, locate an association placer mining claim of sixty acres, or thereabouts, situate in the Fairbanks Mining District of Alaska, second tier bench off of Eva Creek opposite 2, 3 and 4 creek claims, to be known as the Happy Home Association, described as follows, to wit: Commencing at this stake south east post and running 2600 feet in a northerly direction, then a thousand feet in a westerly direction, then 2600 feet in a southerly direction, then 1000 feet in an easterly direction to stake of beginning, joining second tier bench off of Ester Creek opposite 3 and 4 below left limit; and the location certificate of which was filed for record Sept 1, 1908 at 45 min past 1 p. m. and recorded in the office of the recorder in said precinct on that day in Vol 10 of locations notices and recorded at pages 174 and 175 therein; and subsequently the parties of the first part owners leased so much of said ground as is hereinafter described as overlapping the Pat Daly claim to E. M. Horner lessee; that on the

1st day of December, 1905 Pat Daly located a placer claim in said Fairbanks Precinct on Ester Creek, a tributary of Cripple Creek, described as follows: A second tier bench on left limit opposite No. 3 below Creek Claim, calls for 600 feet upstream or west and 400 feet downstream or east from the initial post and 872 feet back or north from lower right limit corner, thence 1000 feet upstream to upper left limit corner, and thence 872 feet back to upper left limit corner; that stakes were set to mark the boundaries of said claim but were not exactly the distances mentioned in the notice; that discovery and assessmen work were done on said claim, and the location notice was filed for record in the office of the recorder in said district on February 21st, 1906, and same recorded in Vol. 7 of Locations notices page 137; that thereafter the title to said premises was conveyed to and the same is now in the names of the parties of the second part, as owners and lessees; that the claim so located by the parties of the first part overlaps the claim so located for and owned by the parties of the second part as shown on that map of the survey thereof made by C. E. Davidson on the 29th day of September, 1911. That the parties hereto have compromised their differences in respect to the said overlap of the Daly Claim by the Happy Home Association claim, and in consideration thereof the parties of the first part do hereby abandon all right, claim, or title to the whole of the said Pat Daly claim as surveyed and located on the ground from stake to stake by the said C. E. Davidson survey of said Sept

29th, 1911, and in consideration of the conveyance to them of the seventy-five feet strip hereinafter made by the parties of the second part to the parties of the first part, the parties of the first part do hereby sell, assign, set over and quit-claim to the parties of the second part, in the proportions as they now claim the same, the whole of the ground within the said Pat Daly claim as shown in said C. E. Davidson survey of said Sept 29th, 1911; and in consideration of such conveyance to them the parties of the second part do hereby sell, assign, set over and quit claim to the parties of the first part, in the proportions as they now claim the same, a strip of ground off the upper end of the Pat Daly claim, running up and down the general course of Ester Creek, and running seventy-five feet wide parallel to the northely line of said claim as shown on the C. E. Davidson survey of said Sept 29th, 1911, the same to be surveyed and marked off by said Davidson as soon as he can hereafter do the work; the parties of the second part agree that the parties of the first part may permit the water and tailings from the said seventy-five foot strip and the land immediately adjacent and above where said E. M. Horner is now working to flow upon the said Daly claim, but the parties of the first part and their lessees will impound the said tailings with brush and other material so as to pile the same in a good and workmanlike manner on their own ground and as little as practicable on the ground belonging to the parties of the second part. Water reaching the ground of the parties of the second part

may be used by them in mining.

IN WITNESS WHEREOF the parties hereto have set their hands and seals at Fairbanks, Alaska, on the day and year first above written,

M. WAGNER,
CHRIS WICHMAN,
GEO. WHEELER,
M. BEEGLER by WHEELER,
E. M. HORNER & CO.,
Per E. J. HORNER,

Parties of the First Part.

JAMES WICKERSHAM,
H. J. PATTERSON,

Parties of the Second Part.

WITNESSES:

C. E. DAVIDSON,
J. E. COFFER.

Territory of Alaska

TERRITORY OF ALASKA

FAIRBANKS PRECINCT ss

THIS IS TO CERTIFY: That on this 8th day of November, A. D. 1911, there personally appeared before me, the undersigned Notary Public, the above named persons, who are each known to me to be the persons who signed the foregoing instrument and who each signed the same in my presence and who each acknowledged to me that he signed the same freely and voluntarily and for the uses and purposes therein set forth.

IN WITNESS WHEREOF I have hereunto set my hand and notarial seal on the day and date in

this certificate first above, written.

(Notarial seal)

JOHN E. COFFER,

Notary Public in and for the Territory of Alaska,
residing at Fairbanks, Alaska.

(Indorsed) 35160. entered, compared, indexed.
Dated; November 8th 1911. M. Wagner et al and
James Wickersham et al.

Deed. (Note: Words "compromise agreement"
marked out in pencil and word "Deed" written above
same in pencil)

TERRITORY OF ALASKA

FOURTH JUDICIAL DIVISION.—ss.

Filed for record at request of H. J. Patterson on
the 10 day of Nov. 1911 at 10 A. M. and recorded in
Vol 15 deeds page 446 Fairbanks Recording Precinct.
JOHN F. DILLON, Recorder. By C. E. Wright,
Deputy.

Mr. PRATT.—(After reading said Exhibit C) Did
you consult Mrs. Patterson in regard to that agree-
ment.

A. Yes.

Q. Got her permission, did you?

A. Yes.

Q. To do all that?

A. She— Well, of course, there was a good deal
of argument.

Q. You got her consent to make such an agree-
ment?

A. Yes.

Q. Had you consulted her previous to that with
reference to the lease?

A. We talked it over at home.

Q. Your lease of October 12, 1911 wherein you made your quarter interest, or gave a quarter—gave a lien upon your quarter interest in the Daly Bench for the payment of royalties and to assure the payment of all debts in working the claim, had you talked that over with Mrs. Patterson beforehand?

Mr. HEILIG.—We object to the form on the question, as not being in accordance with the instrument itself, nor in accordance with any answer that the witness has heretofore made, in the form in which it is put.

The COURT.—I think the witness has said that it was not his quarter interest.

Mr. PRATT.—Q. Did you consult Mrs. Patterson before you drew up the lease dated the 12th of October, 1911, with Mr. Wickersham and get her consent to the terms that you afterwards embodied in it?

Mr. HEILIG.—We object to the form of that question “before he drew up the lease”. He didn’t draw up any lease.

Mr. PRATT.—The lease was drawn up.

The COURT.—I think that removes the objection. He may answer the question.

A. I don’t remember exactly whether I did or not—the exact circumstances at that time, but I know I told her afterwards, but I am not positively certain as to before.

Mr. PRATT.—Q. Did you consult her before you made the deed to the property to her?

A. Before I made the deed to her?

A. Yes.

A. Yes. She had asked me to make the deed to her as soon as I got it.

Q. She had?

A. She was disappointed that the deed wasn't made to her in the first place.

Q. You told her you were going to do it, did you?

A. I did.

Q. Did she know at the time that you made the deed that you were going to make it that day?

A. I don't know exactly whether she did or not, not particularly.

Q. Did you deliver the deed to her?

Mr. HEILIG.—That is admitted by the pleadings, that the deed was made to her on the 27th of November. They allege it affirmatively and we allege it affirmatively; and we object to any testimony on that subject.

The COURT.—What is the purpose.

Mr. PRATT.—I wanted to know whether she knew anything about it; to show it was merely a voluntary deed made out by this witness and filed by himself without her knowledge.

Mr. HEILIG.—He has already testified that he had promised to make it to her; that she urged him to make it, and that he made it.

The COURT.—Well, he may answer the question.

A. What is the question?

Q. (question read: "Did you deliver the deed to her")

A. On that day?

Q. Well, at all. Did you deliver it to her?

A. Yes.

Q. When?

A. As soon as I got it back.

Q. Back from where?

A. From the recording office.

Q. From the recording office?

A. Yes.

Q. You had it recorded then?

A. I had it made out and left it with Guy Erwin to record, because I wanted to catch the car out to Engineer that evening. Mr. Hamilton and I had been out looking over the ground.

Q. You had spent a good deal of your own money on the Daly Bench prior to the time that you delivered the deed to Mrs. Patterson hadn't you?

A. I did under the lease.

Q. How much did you spend?

A. Well, I couldn't say now just how much prior to the making of the deed.

Q. Just—(Interrupted)

A. I had to regain possession, help to regain possession of the ground in order to renew my lease.

Q. Something over fourteen hundred dollars, wasn't it?

A. That was not all prior to the making of the deed. That work was continued through until January—the sinking of the shaft. We had put some men on there to regain possession of the ground—

to hold possession of the ground—putting up buildings.

Q. That was all your own money, and none of it Mrs. Patterson's?

A. No. None of Mrs. Patterson's at all.

Q. Did she ever reimburse you for that expenditure?

A. This was under the lease. It was to renew my lease with Wickersham.

Mr. HEILIG.—You didn't answer the question. Read the question.

Q. (Question read: "Did she ever reimburse you for that expenditure?")

A. No.

Mr. PRATT.—Q. After you got that lease, you assigned it to Mr. Hamilton for what consideration? What did Hamilton give you for it?

A. Well—

Mr. HEILIG.—Do you mean whether he paid him any money for it?

Mr. PRATT.—The witness understand the question.

Mr. HEILIG.—I think the witness doesn't understand it.

Mr. CLARK.—He has not said so.

A. I didn't receive any money for it. No.

Mr. PRATT.—Q. What was the consideration, then, for your transfer to Hamilton?

A. There was no real consideration.

Q. Wasn't the lease valuable?

A. It was in a way.

Q. But you couldn't get anything for it?

A. There was a— It was a pretty mixed up affair, that lease.

Mr. PRATT.—That is all.

Mr. HEILIG.—That is all.

JOHN R. JUNKIN, a witness for plaintiff, after being sworn, testified as follows, to-wit:—

DIRECT EXAMINATION.

BY MR. PRATT:

Q. Mr. Junkin. Where were you working in the spring of 1911 and summer of 1911?

A. On the Last Chance Association on Engineer Creek.

Q. For whom?

A. For H. J. Patterson.

Q. Do you remember hearing about Horner & Company striking pay over on Eva Creek in the summer?

A. I do.

Q. About that time did you have a conversation with Mr. Patterson relative to the property which he owned over there?

A. I did.

Q. State that conversation.

A. Well, he told me about Horner striking the pay, and he—Mr. Patterson owning a quarter interest in the Daly Bench, just by where Horner struck the pay.

Q. Did you later on have another conversation relative to that claim and his ownership of that?

A. Yes. We had talked about it quite often. Later on he talked to me.

Mr. HEILIG.—Fix the date. The first conversation you fixed in the summer of 1911. Now, if you testify to any other conversation, we will require the time to be fixed.

Mr. PRATT.—Q. Do you remember another conversation?

A. I do.

Q. At what time and place?

A. Well, it was in the boiler house on the Last Chance Association. I think it was sometime in August.

Q. What year?

A. 1911. He was talking about opening up that ground over there, and he talked to me about going over later in the season.

Q. Did he say anything more?

A. Well, first he asked me if I would go over and look after his interest there in the lay, if he should make final arrangements to carry the lay through. And afterwards he told me that he couldn't finance the lay, but he asked me if I wanted the lay. In fact I had asked him if I could have a lay on the upper end of the claim. He asked me if I could finance it, and I told him I could, and he promised to give me the lay, and later on he told me that he couldn't give it to me.

Q. Did you have any more conversations concerning that bench?

A. Yes. He talked about it quite often. After-

wards, I think in the latter part of October, or early in November, one day Mr Peoples was out there—
(Interrupted)

Q. What was Mr Peoples' purpose there, if you know?

A. I had an idea, but I didn't know for a fact. But Mr. Patterson did tell me that Peoples was out there and was pressing him for money.

Q. Was what?

A. Was pressing him for money.

Q. Yes?

A. And he said if they kept on pressing him that he would put the Eva Creek property in his wife's name, and would let Mr Peoples and the rest of his creditors do whatever they liked about it. But he said that he would guarantee the men's wages out of the Eva Creek property, provided he couldn't make the Last Chance Association lay pay.

Q. When you said "Eva Creek property", what property was mentioned?

A. The Daly Bench.

Q. Did he use the terms interchangeably, the Eva Creek property and the Daly Bench?

A. Sometimes he called it the Daly Bench and sometimes the Eva Creek property.

Q. What did you say then?

A. I asked him why he hadn't it in his wife's name long ago if he expected they were going to make trouble for him. He said if he put it in his wife's name it would hurt his credit still further.

Mr. PRATT.—You may cross-examine.

CROSS-EXAMINATION.

By Mr. HEILIG.—Q. All this time you knew that he had a lay on the Daly Bench.

A. Yes. He had told me that he had a lay on the whole bench, and a quarter interest in the property.

Q. What?

A. He told me had a seventy-five per cent lay on the whole bench besides—in addition to a quarter interest in the property.

Mr. HEILIG.—That is all.

E. R. PEOPLES, a witness for plaintiff, after being duly sworn, testified as follows, to-wit:—

DIRECT EXAMINATION.

By Mr. CLARK.—Q. Your name is E. R. Peoples.

A. Yes sir.

Q. You are a merchant here, are you not?

A. Yes sir.

Q. Are you acquainted with H. J. Patterson?

A. Yes sir.

Q. Do you know when he was carrying on mining operations on the Last Chance Association claim on Engineer Creek?

A. I do.

Q. Was he dealing with you at that time?

A. Yes sir.

Q. What was he purchasing from you?

A. Well, general mining supplies.

Q. General merchandise such as he needed?

A. Yes sir.

Q. Was he indebted to you along about the month of November, 1911?

A. Yes sir.

Q. Do you remember in how great a sum?

A. It was close I believe to four thousand dollars?

Q. Did you make any effort to collect the money from Mr. Patterson, or to procure any security for your claim?

A. Yes sir.

Q. Did you have any talk with him out on the ground concerning any property that he might own other than the lay he was then operating?

A. At the mine where he was working?

Q. Yes.

A. Not that I remember of, there.

Q. Did you have any conversation with him here in town?

A. Yes.

Q. Can you fix anywhere near the date of that conversation?

A. On the 15th of November I received a check from Mr Patterson for a thousand dollars, and we were unable to get it cashed. Well, Mr. Patterson at that time told us from the following cleanup that he would take that up. This he failed to do, and I should judge about a week later I had a conversation with him concerning other property that he had.

Q. Had you in the meantime seen any record, or heard anything about any deed being recorded con-

veying to him an interest in the Daly Bench on Eva Creek?

A. Yes sir.

Q. Now, where did the conversation take place?

A. In the office of the store.

Mr. HEILIG.—When was this that you saw the record?

A. It was just a day or so, I judge, after, or a few days after the conveyance to Patterson.

Mr. CLARK.—Q. From judge Wickersham?

A. Yes sir. I believe it was from the judge.

Q. Who called your attention to the fact that the conveyance had been made?

The COURT.—What conveyance?

Mr. CLARK.—From judge Wickersham to Patterson of an interest in the Daly Bench.

Q. Who called your attention to the fact that a conveyance had been made?

A. I noticed it in the paper, and Mr. Stroecker also called my attention to it.

Q. Mr. Stroecker was then and is now in your employ?

A. Yes.

Q. And Mr. Stroecker is now trustee in bankruptcy in this H. J. Patterson matter.

A. Yes sir.

Q. And is the plaintiff in this action.

A. Yes sir.

Q. That was before the bankruptcy proceedings were instituted.

A. Yes sir.

Q. Just tell what you did after you ascertained that that transfer had been made from judge Wickersham to Mr Patterson.

A. I asked Mr Patterson if he would not give us security on his interest in this ground.

Q. What ground?

A. The ground on Ester Creek.

Q. Do you mean Ester Creek or Eva Creek?

A. Of Eva Creek, tributary of Ester Creek.

Q. Is that the Daly Bench that you are referring to?

A. Yes sir. And he informed me at that time that through an arrangement with Mr. Wickersham that he couldn't give any security on that ground or transfer it in any manner. That was the sum and substance of the conversation.

Q. What did he say about the ownership of that interest?

A. There was nothing said regarding that.

Q. What did you say to him; remember, as near as you can, the words you used to him in asking for security?

A. I suggested to him that he had a quarter interest in that, and he should put it up as security.

Q. Did he deny that he had a quarter interest?

A. No sir.

Q. The reason he gave you for not putting it up was that he had a written agreement—(interrupted)

A. With judge Wickersham.

Q. (Continuing)—with judge Wickersham whereby he couldn't incumber it?

A. Yes sir.

Q. Did you talk with him anything about the possibility of that ground producing any money, or anything of that kind?

A. I think not at that time.

Q. Did you ever have any other conversation with him at any other time about that particular property?

A. No sir; that is, not that I remember of now.

Q. Did you receive any information thereafter that he had conveyed that quarter interest to Mrs. Patterson?

A. Yes sir.

Q. How long after that, if you remember?

A. I should judge it would be two weeks after that.

Q. Did you have any talk with him after you saw that he had conveyed it to Mrs. Patterson?

A. No sir.

Q. Shortly after that, you instituted suit in this Court against him, did you not?

A. Yes sir.

Q. Then, thereafter, instituted an action to set aside the conveyance.

A. Yes sir.

Q. And, after this bankruptcy proceeding was instituted, that suit was practically abandoned and a similar suit was instituted by the trustee in bankruptcy, the present plaintiff in this action.

A. Yes sir.

Mr. HEILIG.—The record will show that that suit

was dismissed.

Mr. CLARK.—I don't know whether it was or not.

Q. Now, in regard to when this transfer to Mrs. Patterson took place, do you remember whether or not it was a week or two after this conversation with Mr Patterson, or was it only a few days after?

Mr. HEILIG.—Which conversation?

Mr. CLARK.—This conversation in which he stated that he couldn't transfer the property.

A. In referring to that, I remember that it was prior to bringing the last cleanup from the claim. If I remember right, that was the 25th or 26th of the month, and this conversation was prior to that time.

Q. How much prior, if you can state?

A. Well, I should say it was three or four or five days.

Q. It was just in that period of time there that this took place, but you can't fix the date more definitely than that.

A. Yes.

Q. Was Mr. Stroecker in the store at the time you had your conversation with Patterson?

A. Yes sir.

Q. Is he the one that called your attention to this transfer?

A. The transfer from Mr. Wickersham to Patterson, yes sir; and also I think he called my attention to the other one later on.

Mr. CLARK.—Your witness.

CROSS-EXAMINATION.

By Mr. HEILIG.—Q. You had considerable deal-

ings with Mr. Patterson in connection with his mining on the Last Chance claim on Engineer Creek.

A. Yes sir.

Q. You had dealings with him from the very beginning of his operations there.

A. Yes sir.

Q. You were here at the time he commenced operations in February 1911?

A. I think I was. Yes.

Q. You have a partner by the name of Johnson.

A. Mr. Johnson is with us.

Mr. CLARK.—We object as not cross-examination.

The COURT.—The question has been answered.

(Mr. Heilig states what he desires to prove by the witness on cross-examination. Mr. Clark objects as immaterial, and the court states that it is too remote.)

Mr. HEILIG.—That is all, then.

Mr. CLARK.—Plaintiff rests.

Mr. HEILIG.—If the Court please. Ordinarily in a case of this kind I should not move for a dismissal. But the plaintiffs, by making Mr Patterson their own witness, have vouched so thoroughly for his credibility that, together with that, and other testimony, none of which is binding upon Mrs Patterson at all, I think that, under the authorities which I purpose to produce, that they have absolutely failed to support their allegations. In other words, that they have absolutely failed to prove that Mr Patterson did convey on the 27th day of November, 1911, this interest in the Daly Bench to his wife in

fraud of his creditors, with the intent to defraud them, and with intent, on the part of Mrs Patterson when she received the deed, to defraud them. They must show in a case of this kind, under the section in our bankruptcy law which permits a trustee to sue wherever a creditor could sue, not only that Mr Patterson, when he made this deed, intended to defraud his creditors, but they must show that Mrs Patterson, when she received the deed, intended to defraud his creditors. They have absolutely failed to show any intent on her part. They have failed to show, outside of the testimony of Junkin who details a conversation which we had to admit for this reason: That they made Patterson a party. He is not a necessary party under all the authorities, but it was proper that he should be made a party and therefore I could not move to strike him out. But the rule is absolute and uniform that, while he being a party would make evidence of that kind admissible as to his statements which he had made, there was no evidence to show that, at the time he made this conveyance, he did it for the purpose of defrauding his creditors, much less is there any evidence that, at the time Mrs Patterson received this deed, she had any knowledge of such intent on his part. Because there is not a scintilla of evidence on that, nor is there a scintilla of evidence that she, by accepting the deed, intended to defraud any creditors. On the contrary, their evidence shows positively that her's was the only money that entered into the purchase of that quarter interest. Their witness proves abso-

lutely that he never put a dollar into that purchase. The purchase price was the expense of sinking a hole to bedrock and doing the assessment work. That purchase price was paid by Mrs Patterson, and is not disputed and not denied, and it stands absolutely. Patterson testifies that he never put a dollar into the purchase of that quarter interest. (Reads authorities and argues motion)

Mr Pratt and Mr Clark, on behalf of plaintiff, resist motion and argue same, and the matter is continued until Monday, September 29, 1913, at 10 o'clock A. M.

Monday, September 29, 1913, 10 A. M.

Arguments on motion concluded, and the matter submitted to the Court for decision, whereupon the Court grants the motion of defendants to dismiss the case. Plaintiff excepts thereto and an exception is allowed by the Court.

DEFENDANTS' EXHIBIT "2."

Lease of Mining Ground.

This indenture of lease made and entered into this 12th day of October, 1911, by and between James Wickersham, of Fairbanks, Alaska, the party of the first part, and H. J. Patterson, of the same place, the party of the second part,

Witnesseth: That the party of the first part is the owner of an undivided three-fourths interest in and the party of the second part is the owner of an undivided one-fourth interest in that certain placer min-

ing claim known as the "Daly Bench", situate on the left limit of Ester Creek in the second tier of benches and about opposite three below discovery on the left limit of said Ester Creek, Fairbanks Precinct, Alaska, and adjoining the Norton bench, which said Daly Bench was located by Pat Daly on December 1, 1905, the location notice of which is recorded at page 137, Vol. 7 of Locations, in the office of the recorder in said Fairbanks Precinct, Alaska; that the party of the second part has applied for and the party of the first party hereby gives to the party of the second part a lease upon the said claim in consideration of the terms and covenants of this lease and also in consideration of the terms and agreements contained in that certain other contract signed between these parties at the same time as this lease, which said other agreement is as much a part of this agreement of lease as if written in its body in consideration of the rents, royalties, covenants and agreements hereinafter reserved and by the said party of the second part to be kept, paid, and performed, and in consideration of the performance of the other mentioned agreement, of even date herewith, the party of the first part does hereby grant, demise, let and lease unto the said party of the second part, the party of the second part does hereby accept the lease of the whole of the said premises together with all appurtenances and the right and privilege to prospect and mine the same and to extract therefrom all the gold and gold bearing placers therein contained subject to the terms of this agreement:

To have and to hold the same unto the said party of the second part from the date of this agreement until the 12th day of October, 1915, unless sooner determined or forfeited through the failure of the party of the second part to pay and deliver the rents and royalties agreed upon, or for other violation of the terms, covenants and conditions in this lease, or the agreement of even date herewith, against the said party of the second part reserved.

As part consideration of this lease the party of the second part agrees that his undivided one-fourth interest in said premises shall be covered and included in the terms of this lease and shall also at all times be subject to any debts, defaults or damages resulting from the working under this lease, or for violation thereof, and the said Daly claim shall at all times be worked and considered as a whole between the parties hereto, and all subject to the terms of this lease and it is especially agreed that the party of the first part shall have a first lien upon the whole of the output of the whole of the Daly claim, including the undivided one fourth interest of the party of the second part for the payment of the royalty reserved to the party of the first part and the performance of the terms of this lease.

In consideration of the said demise and the lease the said party of the second part does hereby covenant and agree to and with the said party of the first part as foll to-wit: To enter upon the said demised premises wit thirty days after the signing of these presents and begin and thereafter continuously

maintain possession and mine the said mining claim in a good and miner like manner with due regard to the development, preservation and value of the same as a mining claim, to leave all unworked ground intact and adjacent; to operate no rocker, longtom or other kindred machine except for prospecting; to do no panning thereon except to keep account of and test the value of the ground, and of such mineral obtained by rocker, longtom, panning or otherwise to keep accurate account and include the gross amount thereof in the gross output of gold produced from said premises; to work and mine said premises steadily and continuously from the date hereof until the termination of this lease; to well and sufficiently timber all shafts, drifts, tunnels and passage ways where proper in accordance with good mining and not to mine, drift or excavate outside the boundaries of said demised premises, and should the party of the second part or any one for or under him do so or otherwise interfere with other property then any damage resulting therefrom to any person shall be paid by the said party of the second part who shall save the party of the first part harmless; to excavate, mine and remove all pay dirt from the tunnels, drifts or other openings in said mine which shall contain at least one dollar and a half to the square foot of bedrock.

And the party of the second part further agrees that immediately upon locating pay on said demised premises he will put such a sufficient force of men and machinery at work thereon as is necessary to

work the same in a good and workmanlike manner and will continue to work the same from that time until the same is worked out; he agrees to furnish all the necessary tools, provisions, labor and outfit for the purpose of properly working the said premises during the whole of the term without any expense whatever to the party of the first part; and the party of the second part hereby expressly covenants and agrees that he will not allow or permit any lien or liens to be adjudged against the premises or upon the dump or gold or gold dust coming from the said premises, and the party of the second part will hold and keep the party of the first part and all his interest in the claim or output safe and harmless from any such liens for labor or otherwise, and the party of the second part agrees to post and maintain a notice in writing upon said premises in the name of the party of the first part giving notice to all persons, laborers, materialmen and others that no claim of lien shall be made thereon by any laborer, materialman or other person, in accordance with the statutes, and the party of the second part further agrees that his undivided one fourth interest shall be held liable to the party of the first part for all liens or other claims made or adjudged against said property which shall in any way become a charge upon the interest of the party of the first part.

The party of the second part further agrees to permit the party of the first part or his agent at any time to enter into and upon all parts of the demised premises for the purpose of inspecting, testing, pan-

ning and determining the condition and value of the dirt in said ground, or to ascertain any other fact which in the discretion of the party of the first part or his agent is necessary and proper to his security, and will at all times permit the party of the first part or his agent to inspect the books, records and accounts, either in his books or in the bank, assay office or other place where the evidence and record can be found, and will permit the party of the first part or his agent to acquire in all proper ways and means any and all information regarding the business thereof or connected therewith.

The party of the second part agrees specially to make each and every cleanup in the presence of the party of the first part, or his duly authorized agent, and to give him or his agent reasonable advance notice so that he can be present and specially agrees to deliver to the party of the first part or to his duly authorized agent, the full twenty five per cent. or one quarter of the gross amount of each and every cleanup at the time the same is finished, and it is agreed by the party of the first part that he or his duly authorized agent will at that time and place give to the party of the second part a receipt in writing for all such gold or gold dust so then received.

And it is of the essence of this contract, and the party of the second part hereby specially agrees to pay and to deliver to the party of the first part, or to his duly authorized agent, in consideration of this lease, as the share, royalty and rental of the party of the first part twenty five (25 per cent) per cent. or

a full one fourth of the gross amount of all gold and gold dust and other mineral extracted, mined, taken or produced from the whole of the said premises during the whole of the term of this lease or lay, and agrees to pay and deliver said one fourth part of the said gross output of the whole of the said mining claim to the said party of the first part or his fully authorized agent immediately upon and after each cleanup is so made, without delay or default for any reason whatever.

And the party of the second part does hereby specially agree not to assign this lease or lay or any interest therein or thereunder and not to sublet or sublease the said demised premises or any part thereof nor to permit the same nor any part thereof nor any interest therein to pass to any other person whatever without the written consent of the party of the first part had and obtained, and this prohibition shall extend to the undivided one fourth interest belonging to the party of the second part as fully as to the interest belonging to the party of the first part.

The party of the second part further agrees that he will do the annual assessment work on said claim for the years 1911, 1912, 1913, 1914, and 1915, and that he will also make and file for record in the office of the recorder in the precinct where said claim is located the proof thereof within the time limited by law to secure the greatest legal advantage thereof to the owners of said claim.

The party of the second part agrees to deliver up to the party of the first part the whole of the prem-

ises belonging to the party of the first part, or to his vendee, upon the expiration of this lease, and all the appurtenances^{and improvements} thereunto belonging, free and clear of all incumbrances, liens, or taxes.

And it is further agreed by the party of the second part that if he or any person in possession through or under him, shall fail, neglect or refuse to work said ground continuously and in good faith for a period of more than sixty days, without the written consent of the party of the first part or his duly authorized agent, then and in that event the party of the first part, or his duly authorized agent may at his option declare the lease to be forfeited and at an end, and the party of the first part or his duly authorized agent, or his vendee may enter into possession thereof and remove all persons therefrom and take exclusive possession thereof.

And finally, upon the violation of any of the terms, covenants or conditions of this lease by the party of the second part, or by any person acting by, through or under him, through purpose, neglect or failure to fairly and promptly comply therewith as specifically herein written, the term of this lease or lay, at the option of the party of the first part, or his duly authorized agent, shall expire and be at an end, and the said premises with the appurtenances and all improvements thereon, save only the machinery and personal property belonging to the party of the second part, or those acting within the terms of this lease by, through or under him, shall be immediately within the possession and under the con-

trol of the party of the first part or his duly authorized agent, and the party of the first part or his duly authorized agent may with or without demand enter upon said premises and dispossess any and all persons occupying the same with or without force and with or without process of law.

Each and every clause, covenant, term and condition of this agreement shall extend to the heirs, executors or administrators of the parties hereto and to the assigns or vendees of either.

In witness whereof the parties hereto have hereunto set their hands and seals, in duplicate, the day and year first above written.

JAMES WICKERSHAM (Seal)

H. J. PATTERSON (Seal)

In presence of

ALBERT R. HEILIG

JOHN L. McGINN.

Territory of Alaska

Fairbanks Precinct ss.

This is to certify that on this 14 day of October, 1911, before me, the undersigned, a notary public in and for the Territory of Alaska, residing at Fairbanks therein, and being duly commissioned and sworn, there personally appeared James Wickersham and H. J. Patterson, to me known to be the individuals described in and who executed the within agreement, and they each of them, each for himself acknowledged to me that he signed and sealed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

In testimony whereof I have hereunto set my hand and notarial seal the day and year in this certificate first above written.

(Notarial Seal) ALBERT R. HEILIG,
Notary Public in and for the Territory of Alaska, re-
siding at Fairbanks therein.

The share, royalty, or rental to be paid to the lessor by the lessee, under the terms of the hereto attached lease, is hereby reduced from twenty-five per cent. to twenty per cent upon the gross output of the ground described in said lease; in all other respects the lease to remain in its original form.

Dated at Fairbanks, Alaska, January 29, 1912.

JAMES WICKERSHAM

By HENRY T RAY

his atty in fact.

Witness: Albert R. Heilig.

Accepted:

(Indorsed: 35159 Entered Compared. Agreement Between James Wickersham and H. J. Patterson Dated October 1911. Territory of Alaska Fourth Judicial Division ss. Filed for Record at request of H. J. Patterson on the 10 day of Nov 1911 at 50 min. past 10 a. m. and Recorded in Vol. 5 of Leases page 216 Fairbanks Recording District. John F. Dillon Recorder. By C. E. Wright, Deputy.)

DEFENDANTS' EXHIBIT "3".

Agreement.

This indenture made and entered into this 19th day of September, 1910, by and between James Wickersham, of Fairbanks, Alaska, the party of the first

part, and H. J. Patterson, of Ester Creek, Fairbanks Precinct, Alaska, the party of the second part,

Witnesseth: That the party of the first part is the owner and in possession of that certain placer mining claim known as the "Daly Bench", situate on the left limit of Ester Creek in the second tier of benches and about opposite Nos. 2 and 3 below Discovery on the said left limit of said Ester Creek, Fairbanks Precinct, Territory of Alaska, and the party of the second part desires to prospect thereof and to take a lease for the future working thereof; in consideration of the sinking of a hole from the surface to bed-rock thereon for the purpose of prospecting the said ground and determining its value by the party of the second part at his own expense, the party of the first part does hereby agree to make, sign and deliver to the party of the second part a quitclaim deed to an undivided one-fourth interest in the said premises; the party of the second part undertakes hereby, in consideration of said agreement and transfer to sink said hole upon the said premises and to do the assessment work for the year 1910 without any expense whatever to the party of the first part; in further consideration of the rents, royalties, covenants and agreements hereinafter reserved and by the said party of the second part to be kept, paid, and performed, the party of the first does hereby grant, demise, let, and lease unto the said party of the second part the whole of the said premises together with all the appurtenances and the right and privilege to further prospect and mine the same and to

extract therefrom all of the gold and gold bearing rock, earth, and gravel therein contained.

To have and to hold the same unto the said party of the second part from the date of this agreement until the 19th day of September, 1912, unless sooner determined or forfeited through the failure of the party of the second part to pay and deliver the rent agreed upon or from some other violation of the terms, covenants and conditions hereinafter contained or any of them against the said party of the second part reserved.

And in consideration of the said demise the said party of the second part does covenant and agree to and with the said party of the first part as follows to wit:

To enter upon said demised premises within a reasonable time after the signing and sealing of these presents and to dig, excavate, bore or otherwise sink one hole from the surface to bedrock upon said claim for the purpose of prospecting the said ground and doing the assessment work for the year 1910.

Ans the party of the second part further agrees that he make, sign, and cause to be recorded in the office of the Recorder in and for the Fairbanks Precinct, Territory of Alaska, an affidavit proving the doing of the assessment work thereon for the year 1910.

And the party of the second part further agrees to enter upon said premises within a reasonable time after the signing of these presents and proceed to work the same in a minerlike manner with due re-

gard to the development, preservation and value of the said demised premises; to leave all unworked ground intact and adjacent; to operate no rocker, long tom or other kindred machine; to do no panning thereon save and except to keep account of and test the value of the ground worked, and of such panning to keep an accurate account and include the gross amount thereof in the gross output of gold produced from said premises; to work and mine said demised premises steadily and continuously from the date hereof until the termination of this lease; to well and sufficiently timber all shafts, drifts, tunnels and passageways where proper in accordance with good mining and not to drift or excavate outside the boundaries of said demised premises, and should said party of the second part so do then any damage or damages resulting therefrom to any person or persons owning or operating adjacent mines or mining ground shall be paid by the said party of the second part and save the party of the first part harmless because thereof.

And the said party of the second part hereby expressly covenants and agrees that he will not allow or permit any lien or liens to be filed or any claim or any kind to be made by, through or under him upon any part or portion of the premises or title therein claimed or owned by the party of the first part, nor shall any part or portion of the dum or dumps or the proceeds thereof or the buildings or other improvements thereon to be subjected to any lien or liens for any labor or material and as against the

same the said party of the ^{second}~~first~~ part will hold and keep the party of the first part and the said demised premises safe and harmless, and the said party of the second part will post a notice in writing upon said premises in the name of the party of the first part giving notice that no claim or lien shall be made thereon by any laborer or materialman or other person and said notice shall be filed in accordance with the statute in such case now made and provided.

And the said party of the second part further agrees to permit the party of the first part or his agent at any time to enter into and upon the said demised premises for the purpose of inspecting, testing, panning and determining the condition and value thereof and of the gold bearing gravels therein and will permit him or his agent to inspect the books and records of the said party of the second part relating thereto and will permit him to acquire therefrom any and all information regarding the prosecution of said work by the said party of the second part.

And the said party of the second part does hereby specially agree not to assign this lease or lay or any interest therein or thereunder and not to sublet or sublease the said demised premises or any part thereof nor to permit the same nor any part, interest or title therein to pass to any other person whatever without the written consent of the party of the first part first had and obtained.

And the party of the second part agrees to deliver up to the party of the first part upon the expiration of this lease the whole of the premises so owned by

the party of the first part and all and every the appurtenances and improvements thereunto belonging.

And the party of the second part further specially agrees to make each and every cleanup in the presence of the party of the first part or his agent and to give due notice thereof.

And the said party of the second part further agrees to pay to the party of the first part as his share or royalty, in consideration of this demise twenty-five per cent. of all the gold, gold dust and other mineral extracted, mined, taken and produced from the said ground during the term of this lease or lay and will pay the same to the party of the first part immediately after each cleanup, provided, that if the party of the second part shall comply with his part of the agreement herein and sink the said hole to bedrock as provided herein the party of the first part will convey the said one-fourth interest to him and then the said party of the second part shall only pay to the party of the first part twenty-five per cent of three-fourths of said output.

It is further agreed that the party of the second part shall and will furnish all the necessary tools, provisions, labor, and outfit for the proper working of the said demised premises, during the whole of the term without any expense whatever to the party of the first part.

And it is further agreed by the party of the second part that he will immediately upon locating pay thereon put such a force of men and machinery at work thereon as is necessary to work the same in

a good and workmanlike manner and will continue to work the same from that time until the end of the term of this lease. .

And it is further agreed by the party of the second part that if he shall fail, refuse, or neglect to continue his work on the said ground for as much as sixty days at any time then this lease may be declared to be at an end by the party of the first part who may thereupon enter upon the said premises and remove all persons therefrom and take exclusive possession thereof.

And finally upon the violation or failure by the said party of the second part or any person or persons under him, of any of the terms, covenants, and conditions herein prescribed, the term of this lease or lay shall, at the option of the party of the first part expire and the said premises and every part thereof, with the apurtenances and improvements, save the personal property belonging to the party of the second part shall become forfeited to the party of the first part and he may with or without demand enter upon said premises and dispossess any and all persons occupying the same with or without force and with or without process of law. Each and every clause, covenant, term, and condition of this agreement shall extend to the heirs, executors, and administrators of the parties hereto and to the assigns of either.

In witness whereof the parties hereto have hereunto set their hands and seals the day and year first above written.

JAMES WICKERSHAM (Seal)

H. J. PATTERSON (Seal)

In the Presence of Henry Roden.

Territory of Alaska

Fairbanks Precinct.—ss.

This is to certify that on this 19 day of September, 1910, before me, a notary public in and for the Territory of Alaska, residing therein, duly commissioned and sworn, personally appeared James Wickersham and H. J. Patterson, to me known to be the individuals described in and who executed the within lease or lay agreement, and they and each of them, each for himself and not one for the other acknowledged to me that he signed and sealed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

In testimony whereof I have hereunto set my hand and affixed my official seal the day and year in this instrument first above written.

(Notarial Seal)

HENRY RODEN

Notary Public in and for Alaska.

(Indorsed: 34520 Entered Compared Agreement Between James Wickersham And H. J. Patterson Dated September 19, 1910 Territory of Alaska Fourth Judicial Division ss. Filed for Record at request of H. J. Patterson on the 14 day of Aug 1911 at 15 min. past 3 P. M. and Recorded in Vol. 5 of Miscel page 255 Fairbanks Recording District. John F. Dillon Recorder.)

That, thereafter and on or about the 3d day of October 1913, the Court made and entered the following judgment in the above entitled cause, to-wit:

[Title of Court and Cause.]

JUDGMENT.

Be it remembered that this action came on for trial by the Court, on the 26th day of September 1913, being the day heretofore set for the trial thereof by consent of both parties; then appeared the plaintiff with his attorneys John A. Clark and Harry E. Pratt, and the defendants with their attorney A. R. Heilig, and both parties announced themselves ready for trial; thereupon the plaintiff, on said day and the following day, submitted all his evidence, including documentary evidence and the oral testimony of H. J. Patterson, John Junkin, and E. R. Peoples, and then rested his case; whereupon the defendants moved the Court for judgment, dismissing this action, upon the ground that the evidence submitted by the plaintiff conclusively showed that the plaintiff was not entitled to the relief claimed in his complaint, nor any part thereof, which motion was resisted by the plaintiff; whereupon the Court heard arguments of counsel for the plaintiff and defendants respectively, and, on the 29th day of September 1913, announced in open Court its decision that, from the evidence submitted by the plaintiff, it appeared that plaintiff was not entitled to the relief claimed in his complaint, nor any part thereof; and the time for filing a motion for a new trial having expired, without said motion being filed; in consideration of the premises, it is now

Ordered, adjudged, and decreed that the plaintiff

is not entitled to the relief claimed in his complaint, nor any part thereof, and that this action be, and the same is, hereby dismissed.

And it further appearing, from the records of this action, that, on the 17th day of May 1912, an order was made in this cause, directing H. C. Hamilton, as lessee of the Daly ench, described in the complaint herein, deposit with the clerk of this Court five per cent. of the gross amount of gold mined by him upon said mining claim during the pendency of this action, as royalty accruing to the owner of the undivided one-fourth interest in said Daly Bench the title to which is in controversy in this action, to be held to await the determination thereof, and that the value of the said five per cent. of the gross amount of gold so mined by the said Hamilton is \$5174.66;

It is further ordered that, in the event that, within ten days from the date of this judgment, the plaintiff has not filed with the clerk of this Court a supersedeas bond, approved by the Court, for an appeal from this judgment, that the clerk of this Court pay to the said Mariam A. Patterson, or her attorney A. R. Heilig, the said sum of \$5174.66, if said gold dust or money has been deposited with him, and that, if the said Hamilton has deposited said gold dust with the American Bank of Alaska, that then said bank pay said sum to the said Mariam A. Patterson, or her

said attorney.

Dated, October 3, 1913.

By the Court:

F. E. FULLER,

District Judge.

To the entry of which judgment plaintiff then and there excepted, which exception was allowed.

And now, in furtherance of justice and that right may be done, the plaintiff in the above entitled action, within the time allowed by law and the orders of this Court extending his time within which to prepare, serve, and have settled his bill of exceptions in this cause, herewith presents the foregoing bill of exceptions in the above entitled cause, and prays that the same may be settled, signed, and allowed by the Judge of this Court, in the manner prescribed by law.

McGOWAN & CLARK,

Attorneys for Plaintiff.

ORDER ALLOWING BILL OF EXCEPTIONS.

The plaintiff, by his attorneys Messrs McGowan & Clark, pursuant to notice thereof, duly served on the attorney for the defendants, having, on the twenty ninth day of November, A. D. one thousand nine hundred thirteen, presented to the foregoing bill of exceptions for settlement and allowance by the Court, in the manner prescribed by law, A. R. Heilig, Esq., attorney for defendants, appearing at said time, and it appearing to the Court, from the orders heretofore made and entered herein, that said bill of exceptions has been heretofore, and within due time,

served on the attorney for the defendants, and that said attorney for defendants has not served or filed any proposed amendments thereto, and said attorney for defendants appearing at this time and agreeing, in open court, that the foregoing bill of exceptions contains a full, true, and correct record of the proceedings in connection with said matter, and this Court being satisfied that the foregoing bill of exceptions is true and correct in all particulars and contains all the material testimony, evidence, exhibits, and other proofs introduced by the respective parties during the hearing of said cause, and the Court being fully advised in the premises, it is ordered that the foregoing bill of exceptions be, and the same is, hereby allowed, settled, approved, and signed as the bill of exceptions for use in said cause, and is hereby made a part of the record, and that the same shall be the bill of exceptions to be used on appeal in the above entitled cause; it is further ordered that the clerk of this Court shall re-file said bill of exceptions as of this date.

Done in open Court at Fairbanks, Alaska, on this twenty-ninth day of November, A. D. one thousand nine hundred thirteen.

*Filed in the District Court.
Territory of Alaska. 4th Div.
Nov 29-13
August McBride Clerk*

F. E. FULLER,
District Judge.

[Title of Court and Cause.]

Consent Order for Deposit of Royalties.

The above matter coming on regularly for hearing on the seventeenth day of May, A. D. one thousand

nine hundred twelve, on the application of the plaintiff above named for a continuance of the temporary restraining order hereinbefore granted, pendente lite, at said time appearing Messrs. John A. Clark and Harry E. Pratt, attorneys for plaintiff, and Mr. A. R. Heilig, attorney for defendant, said attorneys, for their respective clients, consenting in open Court that five per cent of the gross output of gold and gold dust and other precious metals and minerals extracted from the Daly Bench on the left limit of Ester Creek, particularly described in the complaint on file herein, shall be deposited by H. C. Hamilton, the layman operating said ground, with the Clerk of this Court during the pendency of this action, and that said Clerk be authorized to convert said gold dust into cash, and the Court being fully advised in the premises,

It is therefore ordered that H. C. Hamilton, layman or lessee of the Daly Bench, situate in the second tier of benches on the left limit of Ester Creek, opposite first tier bench claims Nos. Three and Four Below Discovery on said Ester Creek, after each cleanup hereafter held on said ground, during the pendency of this action, deposit five per cent. of the gross amount of each and every cleanup, said sum being the amount in dispute between plaintiff and defendant, with the Clerk of this Court, to await the outcome of the above entitled action, or until further orders of this Court;

Be it further ordered that the Clerk of this Court be, and he is, hereby authorized to convert all gold

and gold dust so deposited with him by said H. C. Hamilton in the above entitled cause, into cash, and for that purpose he may sell the same to any bank or banker or private individual in the town of Fairbanks, Alaska, at the current market price thereof, and shall hold the proceeds of such sale in lieu of the gold dust itself;

Be it further ordered that the restraining order heretofore by this Court issued in the above entitled cause, wherein defendants are restrained from demanding, receiving, or attempting to collect said five per cent. of the gross output of said Daly Bench, be and remain in full force and effect until further order of this Court.

Done at Fairbanks, Alaska, on this eighteenth day of May, A. D. one thousand nine hundred twelve.

PETER D. OVERFIELD,

District Judge.

O. K.—Heilig.

Entered in Court Journal No. 12, page 9.

Filed in the District Court, Territory of Alaska, 4th Div., May 18, 1912. C. C. Page, Clerk. By H. C. Green, Deputy.

[Title of Court and Cause.]

Order to Deposit Money in Registry of Court.

This matter coming on for hearing, on the application of attorney for defendant for an order requiring the American Bank of Alaska to deposit in the registry of this Court certain moneys deposited with said bank by Henry C. Hamilton, during the season of

1912, as royalties derived from the Daly Bench on Ester Creek, payable to the owner of the interest in said Daly Bench which is in litigation in the above entitled action, and it appearing to the satisfaction of this Court that, shortly after the institution of said action, by stipulation of the attorneys for the respective parties, this Court made an order directing said Henry C. Hamilton to pay into the registry of this Court all royalties derived from the one quarter interest claimed by the defendant Mariam A. Patterson, to await the outcome of this action, and it further appearing to the satisfaction of this Court that said royalties were, by said Henry C. Hamilton, paid and delivered to the American Bank of Alaska, and inadvertently were not paid in to the registry of this Court, but were merely deposited by said Henry C. Hamilton with said American Bank of Alaska for safe keeping, and that, since said time, said gold dust has been converted into money and is now held by said American Bank of Alaska subject to the order of this Court, and it further appearing that said Henry C. Hamilton is, at the present time, absent from the town of Fairbanks and can not personally give directions concerning said gold dust;

Now, therefore, it is ordered that said American Bank of Alaska pay and deliver to the Clerk of this Court money equivalent in value to the amount of the gold dust so deposited with said bank by said Henry C. Hamilton for safe keeping as aforesaid, and that, on the return of said Henry C. Hamilton to Fairbanks, if it is ascertained that any portion of said

gold dust so deposited by him was not properly deposited as royalties from said Daly Bench, said Henry C. Hamilton may apply to this Court for such order concerning the disposition of said money as may be proper in the premises, and that all said money so deposited by said American Bank of Alaska in the registry of this Court be held by the Clerk of this Court subject to the order of this Court.

Done in open Court at Fairbanks, Alaska, on this ninth day of October, A. D. one thousand nine hundred thirteen.

F. E. FULLER,
District Judge.

Entered in Court Journal No. 12, page 719.

Filed in the District Court; Territory of Alaska, 4th Div., Oct. 9, 1913. Angus McBride, Clerk. By P. R. Wagner, Deputy.

[Title of Court and Cause.]

**Order Relative to Supersedeas Bond and Cost Bond
on Appeal.**

The plaintiff above named having, on this day in open Court, secured an order for additional time within which to file his bill of exceptions herein, and having announced that he intends to, and will, petition for and prosecute an appeal from the decision and judgment in this action made and entered, to the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, State of California, and having moved the Court for an order, staying proceedings against the plaintiff pending the hearing of

said appeal, and that an order be made, fixing the amount of the security which plaintiff shall be required to give and furnish to stay said proceedings, and for costs on appeal, and having asked that, on the giving of such security, all further proceedings in this Court be suspended and stayed until the determination of said appeal by the said Circuit Court of Appeals for the Ninth Circuit, and said motion on this day having been granted by this Court;

Now, therefore, it is ordered that, on the plaintiff above named filing with the Clerk of this Court a good and sufficient bond, in the sum of one thousand dollars, to the effect that, if the said plaintiff and defendant on appeal shall prosecute his said appeal to effect within the time allowed by law, or shall answer and pay all judgments damages, and costs if he shall fail to make good his said plea, then this obligation to be void, otherwise to remain in full force, effect, and virtue, which said bond shall be approved by the Clerk of this Court, and all further proceedings in this Court in said cause shall be, and they are, hereby suspended and stayed until the determination of said appeal by the said United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, State of California;

It is further ordered that said bond, in the sum of one thousand dollars, shall operate both as a supersedeas bond and as a bond on appeal to answer damages and costs, the said amount having been fixed by the Court as sufficient to stay proceedings, for supersedeas, and as bond on appeal.

Done in open Court, at Fairbanks, Alaska, on this ninth day of October, A. D. one thousand nine hundred thirteen.

F. E. FULLER,
District Judge.

Entered in Court Journal No. 12, page 718.

Filed in the District Court, Territory of Alaska, 4th Div., Oct. 9, 1913. Angus McBride, Clerk. By P. R. Wagner, Deputy.

[Title of Court and Cause.]

Petition for Appeal.

Comes now the plaintiff and feeling himself aggrieved by the judgment and decree of this court, made and entered herein on October 3, 1913, does hereby appeal from said judgment, decree and order, and the whole thereof, to the United States Circuit Court of Appeals for the Ninth Circuit, for the reasons specified in the assignment of error filed herein, and prays that this appeal be allowed and that a transcript of the record, proceedings and papers upon which said judgment, decree and order was made, together with all pleadings and the exhibits annexed thereto, all testimony and proofs adduced in the case and all judgments and orders, interlocutory or final, bill of exceptions, final decree, notice of appeal and assignment of error, duly authenticated, may be sent to the Circuit Court of Appeals at San Francisco, California; and an order be made fixing the amount of the security which appellant shall give and furnish on said appeal, and that on the giving of such

security, all further proceedings in this court shall be suspended and stayed until the determination of said appeal by said United States Circuit Court of Appeals,

And your petitioner will ever pray.

Dated January 14, A. D. 1914.

McGOWAN and CLARK,

Attorneys for plaintiff.

Due service hereof admitted this Jan. 14, 1914.

A. R. HEILIG,

Attorney for defendants.

Filed in the District Court, Territory of Alaska, 4th Div., Jan. 15, 1914. Angus McBride, Clerk. By P. R. Wagner, Deputy.

[Title of Court and Cause.]

Assignment of Error.

Comes now the plaintiff in the above entitled cause, being the appellant, and assigns the following error as having been committed by the above named court on the trial of the above entitled action, which error said plaintiff intends to and does rely upon in his appeal to be prosecuted to the United States Circuit Court of Appeals for the Ninth Circuit:

1. The Court erred in granting the motion of defendants, at the close of plaintiff's case, to dismiss said action;

2. The Court erred in giving, signing and entering the judgment of date October 3, 1913, in the above entitled action, adjudging that the plaintiff was not entitled to the relief claimed in his complaint, or any

part thereof, and that said action should be dismissed;

3. The Court erred in adjudging that the defendant, Miriam A. Patterson was the owner of the gold dust, or the proceeds thereof, of the value of five thousand one hundred seventy-four and 66-100 dollars (\$5,174.66), which had been impounded to await the outcome of said action;

4. The Court erred in refusing to compel the defendants to proceed with their defense in said action;

5. The Court erred in permitting the defendant H. J. Patterson, over the objections of plaintiff, to testify on cross-examination in regard to any considerations for the deed from H. J. Patterson to Miriam A. Patterson, of date November 27, 1911, prior to the date of the execution thereof, for the setting aside of which said deed, on the ground of fraud, the above entitled action had been instituted,

6. The Court erred in failing to find that the gold dust that had been impounded, under stipulation of the parties to this action to await the outcome of said action, was the proceeds of the lay or lease held by H. J. Patterson, title to which passed to his Trustee after he was adjudged a bankrupt;

7. The Court erred in permitting the defendant H. J. Patterson, over the objection of plaintiff, to testify that the five percent (5 per cent) royalty referred to in the transfer of the lease from Patterson to H. C. Hamilton, was the five percent (5 per cent) which was to accrue to the quarter interest in the Daly Bench Claim, the title to which had been theretofore

vested in H. J. Patterson, prior to the transfer thereof to his codefendant, Miriam A. Patterson;

8. The Court erred in permitting defendants, over plaintiff's objection, to introduce evidence concerning transactions had between the defendant H. J. Patterson and his codefendant Miriam A. Patterson, prior to the 27th day of November, 1911, concerning the considerations for said transfer of said date;

9. The Court erred in permitting the defendants, over plaintiff's objection, to offer in evidence defendants' Exhibit 3, same being an agreement dated September 19, 1910, by and between James Wickersham, of Fairbanks, Alaska, the party of the first part, and H. J. Patterson, of Ester Creek, Alaska, the party of the second part;

10. The Court erred in permitting the defendants, over plaintiff's objection, to introduce evidence concerning the agreement had between H. J. Patterson and James Wickersham and work done thereunder, prior to November 27, 1911;

11. The Court erred in permitting the defendant, over plaintiff's objection, to introduce any evidence concerning the sinking of any holes to bedrock on the Daly Bench Claim, in the year 1910 or in the year 1911, prior to November 27, 1911;

12. The Court erred in permitting the defendant Patterson to testify, over plaintiff's objection, as to who caused the assessment work to be done on the Daly Bench Claim in 1910;

13. The Court erred in permitting any testimony concerning the business dealings between H. J. Pat-

terson and Miriam A. Patterson, prior to November 27, 1911, and particularly in regard to where she secured the money that was used to pay for the sinking of the holes on said Daly Bench Claim;

14. The Court erred in permitting defendants to introduce, over plaintiff's objection, defendants' Exhibit 4;

15. The Court erred in permitting the introduction of any evidence on the part of the defendants, over plaintiff's objection, of conversations had by the defendant H. J. Patterson with his co-defendant Miriam A. Patterson, prior to November 27, 1911;

16. The Court erred in permitting the defendants to introduce, over plaintiff's objection, defendants' Exhibit 5;

17. The Court erred in permitting defendants to put in their case for the defense, under the guise of cross examination of the defendant H. J. Patterson, after he had been placed upon the stand as plaintiff's witness;

18. The Court erred in its finding in favor of defendants and against plaintiff, for the reason that the evidence was insufficient to justify same and said decision and judgment were contrary to law;

19. The Court erred in rendering judgment against plaintiff for defendants' costs incurred in said action.

20. The Court erred in permitting the defendant Patterson, over plaintiff's objections, to testify in substance as follows:

That the defendant Miriam A. Patterson paid for the assessment work on the Daly Bench for the year

1909, which assessment work was the consideration for the giving of the deed by Jas. Wickersham to H. J. Patterson; that the deed was taken in the name of the defendant H. J. Patterson as a matter of convenience; that he asked Judge Wickersham to make the deed to Mrs. Patterson; that Craig, who did the assessment work on the Daly Bench for the year 1910 was paid therefor by Miriam A. Patterson, as shown by defendants' Exhibit No. 5; that the money received by Mrs. Patterson for paying for such work was secured from H. J. Patterson and Delbert G. Hosler and was the proceeds of a note given by H. J. Patterson and Delbert G. Hosler in Dawson, Yukon Territory, on October 19, 1905, as shown by defendants' Exhibit 4; and that the defendant H. J. Patterson held said property in trust at the solicitation of the defendant Miriam A. Patterson; that said money so loaned to said defendant H. J. Patterson and Delbert G. Hosler was taken from a claim staked by Miriam A. Patterson in the Dawson country and was her separate money; that defendant Miriam A. Patterson kept the royalties and selling price of the property staked by her in the Dawson country as her own separate property;

Also, in permitting him to testify of his conversation with Fred Craig, in which he said "Your money is ready for you whenever the work is finished. Mrs. Patterson is to have the quarter interest. I have a quarter interest for putting—a quarter interest for putting the drill holes down and a lease on all of the ground" and "I says Mrs. Patterson will have the

quarter interest for paying for the drill holes", all of which testimony was drawn from the witness on cross examination and was improper cross examination, for the reason that the matters inquired about were not gone into on direct examination, the only question asked of him concerning the consideration of the deed of November 11, 1912, being whether or not Mrs. Patterson paid him anything on that day.

WHEREFORE, plaintiff prays that the judgment in the above entitled action may be reversed and that he may be allowed the things that he has lost thereby.

McGOWAN & CLARK,

Attorneys for Plaintiff.

Due service of the foregoing assignment of error hereby admitted this 14th day of January, A. D. 1914.

A. R. HEILIG,

Attorney for Defendants.

Filed in the District Court, Territory of Alaska, 4th Div., Jan. 15, 1914. Angus McBride, Clerk. By P. R. Wagner, Deputy.

Order Allowing Appeal and Fixing Amount of Bond.

Now on this 17th day of January, A. D. 1914, the same being one of the judicial days of the General October 1913 Term holden at Fairbanks, Fourth Judicial Division, Territory of Alaska, this cause came on to be heard upon plaintiff's petition for an appeal; and the court being advised in the premises,

IT IS ORDERED that the plaintiff's appeal to the United States Circuit Court of Appeals for the Ninth

Circuit at San Francisco, California, be, and the same is hereby, allowed, upon the execution by appellant of a good and sufficient bond, to be approved by this court, in the sum of two hundred and fifty dollars (\$250.00), said bond to be conditioned as a cost bond on appeal.

Done in open court this January 17, 1914.

F. E. FULLER,

District Judge.

Entered in Court Journal No. 12, page 836.

Due service hereof admitted this January 17, 1914.

A. R. HEILIG,

Attorney for Dfts.

Filed in the District Court, Territory of Alaska, 4th Div., Jan. 17, 1914. Angus McBride, Clerk. By P. R. Wagner, Deputy.

[Title of Court and Cause.]

Citation on Appeal.

The President of the United States of America, to the above named Defendants and to A. R. Heilig, their Attorney, GREETING:

You are hereby cited to be and appear in the United States Circuit Court of Appeals for the Ninth Circuit, to be holden in the City of San Francisco, State of California, within thirty (30) days from the date of this citation, pursuant to an order allowing appeal, made and entered in the above entitled cause, in which Edward Stroecker, as Trustee of the Estate of H. J. Patterson, a Bankrupt, is plaintiff and appellant, and Miriam A. Patterson and H. J. Patter-

son are defendants and appellees, to show cause, if any there be, why the judgment, decree and order made and rendered in said action on October 3, 1913, as in said order allowing appeal mentioned, should not be set aside and reversed and why speedy justice should not be done to said plaintiff in that behalf.

WITNESS the Hon. Edward D. White, Chief Justice of the Supreme Court of the United States of America, on this 14th day of January, A. D. 1914, in the year of our Independence one hundred and thirty-eighth.

Attest my hand and the seal of the above named court, this 17th day of January, A. D. 1914.

F. E. FULLER,
District Judge.

Due service hereof admitted this Jan. 17, 1914.

A. R. HEILIG,
Attorney for defendants.

[Title of Court and Cause.]

Designation of Place for Hearing on Appeal.

To the Hon. Frederic E. Fuller, Judge of the above named Court, and to the Defendants and their Attorney:

Now comes the appellant, and, pursuant to the provisions of the Act of Congress giving the designation of the place of hearing appeals for the Ninth Circuit to the appellant, does hereby designate the city and county of San Francisco, in the State of California, as the place of the hearing of the appeal

in the above entitled action.

McGOWAN and CLARK,
Attorneys for Plaintiff.

Due service hereof admitted this 14th day of
January, A. D. 1914.

A. R. HEILIG,

Attorney for Defendants.

Filed in the District Court, Territory of Alaska,
4th Div., Jan. 15, 1914. Angus McBride, Clerk. By
P. R. Wagner, Deputy.

[Title of Court and Cause.]

Supersedeas Bond.

Know all men by these presents that we, Edward
Stroecker, of Fairbanks, Alaska, as trustee for the
creditors of H. J. Patterson, a bankrupt, as prin-
cipal, and C. J. Hurley and E. R. Peoples, of the
same place, as sureties, are held and firmly bound un-
to Mariam A. Patterson and H. J. Patterson, defend-
ants herein, in the sum of One Thousand Dollars,
lawful money of the United States of America, to be
paid to Mariam A. Patterson and H. J. Patterson,
defendants aforesaid, for the payment whereof, well
and truly to be made, we bind ourselves, our heirs, ex-
ecutors, administrators, and assigns, jointly and sev-
erally, firmly by these presents.

Sealed with our seals and dated this tenth day
of October, A. D. one thousand nine hundred thir-
teen.

Whereas lately, at a District Court for the Terri-
tory of Alaska, Fourth Judicial Division, holden at
Fairbanks, Alaska, in a suit pending in said Court

between Edward Stroecker, as Trustee for the creditors of H. J. Patterson, a bankrupt, as plaintiff,, and Mariam A. Patterson and H. J. Patterson, as defendants, a judgment was by the above entitled Court given and rendered against the plaintiff above named and in favor of the defendants above named, dismissing the action instituted by plaintiff against said defendants and adjudging that the plaintiff was not entitled to the relief demanded in his said complaint, and giving and entering judgment for costs in the sum of....., and adjudging that the defendant Mariam A. Patterson was entitled to receive the sum of five thousand one hundred seventy four dollars sixty six cents' worth of gold dust, that had been ordered to be deposited with the Clerk of this Court, but which had been deposited with the American Bank of Alaska, at Fairbanks, Alaska, to await the outcome of said action, and decreeing that the plaintiff should have ten days within which to file a supersedeas bond in said action, and that, in the event said bond was not filed within said time, that said money, so in the hands of said American Bank of Alaska, should be paid to said Mariam A. Patterson, said judgment having been given, made, and entered in said cause on the third day of October, A. D. one thousand nine hundred thirteen;

And whereas said plaintiff did, on the ninth day of October, A. D. one thousand nine hundred thirteen, obtain an order, extending his time within which to prepare, serve, and have settled his bill of

exceptions, to be used on appeal from the verdict and judgment in this cause to the United States Circuit Court of Appeals for the Ninth Circuit at San Francisco, State of California, to and including the 17th day of November, A. D. one thousand nine hundred thirteen, and having, on the same day, announced that he intends to, and will, petition for an order allowing an appeal from the judgment of said District Court for the Fourth Judicial Division of the Territory of Alaska, as aforesaid, to the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, State of California, and having applied to the Court for an order, fixing the amount of the security which plaintiff shall be required to give and furnish in order to stay proceedings and for costs on said appeal, and the Court having thereupon made its order that, on the plaintiff's filing with this Court a good and sufficient bond, in the sum of One Thousand (\$1000.00) Dollars, to be approved by this Court, to the effect that, if the said plaintiff shall prosecute his said appeal to effect within the time allowed by law and shall answer and pay all judgments, damages, and costs, if he shall fail to make good his said plea, then said obligation to be void, otherwise to remain in full force, effect, and virtue, and that, on the approval of said bond, all further proceedings in this Court shall be stayed and suspended until the determination of said appeal by the said United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, State of California, and the Court having further ordered that said bond

in the sum of One Thousand (\$1000.00) Dollars shall operate both as a supersedeas bond and a bond on writ of error, and the sum of One Thousand (\$1000.00) Dollars having been fixed by the Court as sufficient to stay proceedings and for said supersedeas and cost bond on appeal;

And whereas the above named plaintiff intends to prosecute said writ of error to said United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, State of California, to reverse the decision and judgment rendered in the above entitled cause;

Now, therefore, the condition of the foregoing obligation is such that, if the said Edward Stroecker, as trustee for the creditors of H. J. Patterson, a bankrupt, shall prosecute said appeal to effect, or shall answer and pay all damages and costs if he shall fail to make good his said plea on said appeal, then this obligation shall be void, otherwise to remain in full force, effect, and virtue.

And whereas, said plaintiff on appeal desires to stay execution in the above entitled cause, pending the determination of said appeal;

Now, therefore, the further condition of this obligation is such that, if the said Edward Stroecker, as trustee for the creditors of H. J. Patterson, a bankrupt, shall prosecute his said appeal to effect, or shall answer and pay all judgments, damages, and costs, if he shall fail to make good his said plea, then the foregoing bond to be void, otherwise to remain in full force, effect, and virtue.

EDWARD STROECKER, as Trustee, Etc.,
Principal,
By JOHN A. CLARK,
One of His Attorneys.
C. J. HURLEY,
Surety.
E. R. PEOPLES,
Surety.

Territory of Alaska,
Fairbanks Precinct.—ss.

C. J. Hurley and E. R. Peoples being first duly sworn, each for himself and not one for the other depose and say: I am a resident of Fairbanks Precinct, Territory of Alaska, and am one of the sureties named on the foregoing bond; I am worth the sum of One Thousand (\$1000.00) Dollars, to wit, the sum specified as the penalty in said bond, over and above all my just debts and liabilities, in property not exempt from execution and situate within the Territory of Alaska.

C. J. HURLEY.

E. R. PEOPLES.

Subscribed and sworn to before me this tenth day of October, A. D. one thousand nine hundred thirteen.

(Seal)

JOHN A. CLARK,
Notary Public in and for the Territory of Alaska.

My Commission expires on Apr. 24, 1914.

The foregoing bond is approved.

F. E. FULLER,
District Judge.

O. K.—HEILIG.

Inserted per order of Court of Jan. 17, 1914. Angus McBride, Clerk. By P. R. Wagner, Deputy.

Filed in the District Court, Territory of Alaska, 4th Div., Oct. 10, 1913. Angus McBride, Clerk. By P. R. Wagner, Deputy.

[Title of Court and Cause.]

Bond on Appeal.

KNOW ALL MEN BY THESE PRESENTS that we, Edward Stroecker, as Trustee of the Estate of H. J. Patterson, a Bankrupt, as principal, and E. R. Peoples and C. J. Hurley, as sureties, are held and firmly bound unto Miriam A. Patterson and H. J. Patterson, the above named plaintiffs, in the sum of two hundred and fifty dollars (\$250.00), to be paid to the said Miriam A. Patterson and H. J. Patterson, their executors or administrators, to which payment well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our successors, representatives and assigns, firmly by these presents.

Sealed with our seals and dated the 17th day of Jan., A. D. 1914.

WHEREAS the above named plaintiff, Edward J. Stroecker, as Trustee of the Estate of H. J. Patterson, a Bankrupt, has taken an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, to reverse the judgment in the above entitled cause by the District Court of the United States for the Territory of Alaska, Fourth Division,

NOW, THEREFORE, the condition of this obligation is such that if the above named plaintiff shall prosecute said appeal to effect and answer all costs, if he shall fail to make good his plea, then this obligation shall be void, otherwise to remain in full force and virtue.

EDWARD STROECKER, (Seal)

As Trustee for Creditors of H. J. Patterson, Bankrupt.

By JOHN A. CLARK,
One of his Attorneys.

Principal.

C. J. HURLEY (Seal)

E. R. PEOPLES (Seal)

Sureties.

In the presence of

JOHN A. CLARK.

United States of America,

Territory of Alaska.—ss.

E. R. PEOPLES and C. J. HURLEY, being first duly sworn, each for himself and not one for the other, deposes and says: I am a resident of Fairbanks Precinct, Territory of Alaska, and am one of the sureties named on the foregoing bond; I am worth the sum of two hundred and fifty dollars (\$250.00), the sum specified as the penalty of said bond, over and above all my just debts and liabilities, in property not exempt from execution and situated within the Territory of Alaska.

C. J. HURLEY.

E. R. PEOPLES.

Subscribed and sworn to before me this 17th day of Jan., 1914.

(Seal)

JOHN A CLARK,

Notary Public in and for the Territory of Alaska.

My Commission expires Apr. 24, 1914.

Filed in the District Court, Territory of Alaska, 4th. Div., Jan. 17, 1914. Angus McBride, Clerk. By P. R. Wagner, Deputy.

[Title of Court and Cause.]

Order Extending Time Within Which to Perfect Appeal.

On this day the above entitled cause came on to be heard before the Judge of the above named court, on application of plaintiff for an order extending the time within which to perfect his appeal herein, and the parties appearing by their respective attorneys and it appearing to the satisfaction of the court that the order heretofore made, extending the time within which to file the record herein with the Clerk of the Circuit Court of Appeals at San Francisco, to April 1, 1914, is insufficient for such purpose, now, therefore,

IT IS ORDERED that the time within which said appellant shall perfect said cause upon appeal and docket and file the record thereof in said United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, California, be, and the same is hereby enlarged and extended to and including the first day of May, A. D. 1914.

Done in open court this March 18th, A. D. 1914.

F. E. FULLER.

District Judge.

Due service hereof admitted this March 18, 1914.

A. R. HEILIG,

Attorney for defendants.

Filed in the District Court, Territory of Alaska,
4th Div., Mar. 18, 1914. Angus McBride, Clerk.

Clerk's Certificate to Record.

United States of America,

Territory of Alaska,

Fourth Division.—ss.

I. ANGUS McBRIDE, Clerk of the District Court, Territory of Alaska, Fourth Division, do hereby certify that the foregoing consisting of 155 pages, numbered from 1 to 155, inclusive, constitutes a full, true and correct transcript of the record on appeal in Cause No. 1769, entitled Edward Stroecker, as Trustee of the Estate of H. J. Patterson, a Bankrupt, Plaintiff, vs. Mariam A. Patterson and H. J. Patterson, Defendants, wherein Edward Stroecker, as Trustee, etc., is Appellant and Mariam A. Patterson et al. are Appellees, and was made pursuant to and in accordance with the praecipe of the appellant, filed in this action and made a part of this transcript, and by virtue of the citation issued in said cause and is the return thereof in accordance therewith; and I further certify that this transcript of record was printed and indexed under and by virtue of and in compliance with a "Rule for Printing Records on

Appeal or Writ of Error", made by this court on the 21st day of March, 1914, and that said transcript of record was indexed by me pursuant to said rule, and the stipulation of the parties filed herein, and that the index thereof, consisting of pages i to ii, is a correct index of said transcript of record; also that the costs of preparing said transcript and this certificate, amounting to Fifty-Eight and Fifty-Five One-Hundredths Dollars (\$58.55), has been paid to me by counsel for appellant in said action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said court, this twenty-eighth day of March, 1914.

(Seal.)

ANGUS McBRIDE,
Clerk District Court, Territory
of Alaska, 4th Division.